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In this third and concluding issue of Current History's *study of labor-management policies in the United States, six articles cover various problems facing our society in this field today. The introductory article, an overview of the present Administration position, points out that in 1965, in his labor policy, President Johnson is "picking up where the New Deal left off in 1938."*

Labor-Management under the Johnson Administration

By James R. Wason
Specialist in Labor, Legislative Reference Service, Library of Congress

Following the overwhelming victory of President Lyndon B. Johnson in the November, 1964, election, interest in its implications for national labor policy has remained at a high level. The election was a victory for the liberal forces in the United States, with the labor unions prominent among them. Swept into office with President Johnson were a large number of senators and congressmen who were elected with labor's support and known to support labor's legislative aims.

This interest has been heightened by the realization that the Democratic party platform, on which the President had campaigned, pledged the repeal of Section 14(b) of the Taft-Hartley Act, the section of the federal law which makes possible the state "right-to-work" laws. These laws make it illegal to establish contracts between labor and management requiring mandatory union membership by all employees within the contract terms. State "right-to-work" laws are presently in effect in 19 states. The overwhelmingly liberal complexion of the new 89th Congress makes it a virtual certainty that Section 14(b) will be repealed, provided President Johnson gives his full support to this primary objective of his labor supporters.

In his State of the Union Message,[1] delivered to the newly-convened Congress on January 4, 1965, the President outlined his program for the Congress and for the Administration—the program of the Great Society. In the area traditionally falling within the scope of labor legislation he mentioned three programs:

1. Extending the protection of the Fair Labor Standards Act—the federal wage and hour law—to additional workers;
2. Improving and modernizing the federal-state unemployment compensation system; and
3. Repealing Section 14(b) of the Taft-Hartley Act.

After this beginning, so reassuring to his labor supporters, so disturbing to his conservative opponents and to some others, nothing further happened for several months. The Economic Message[2] did not mention Section 14(b). It repeated the proposals to extend the coverage of the Fair Labor Standards Act and to make improvements in the unem-

[1] For partial text, see *Current History*, March, 1965.
[2] For partial text, see *Current History*, June, 1965.

ployment compensation system. It listed them under items for "Maintaining Incomes for the Disadvantaged," along with Medicare, the annual items strengthening the assistance and pension aspects of the Social Security Act, and the antipoverty program. Thus he underlined the importance of the proposals as major parts of his program. But despite, or possibly because, of news stories of its imminent appearance, the Labor Message, with its accompanying draft legislation, did not appear. February, March and April passed. Congress was now halfway toward a possible August adjournment. Then, on May 18, the Labor Message[3] went to the Hill.

THE LABOR MESSAGE

In one sense, the message contained nothing new. It merely repeated the three proposals of the State of the Union Message. Yet, despite the fact that it remained within the preexisting framework, it contained a number of surprises. In amplifying the three programs the message gave them a significance not generally anticipated.

Up to now the Johnson program had been to carry forward to completion the proposals of the Kennedy administration. Now, the Johnson program was his own, but its roots were in the Roosevelt administration; in the Roosevelt second term. Clearly, the President was picking up where the New Deal left off in 1938.

The tone of the message was set in its opening paragraphs:

> The last 30 years have seen unprecedented economic development . . . and unparalleled improvement in the general standard of living of the working men and women of America.
>
> Most of this has been accomplished privately. These are the fruits of free enterprise.
>
> This process of . . . growth has been helped by wise legislative enactment. . . .
>
> But progress is never complete. Experience under various existing laws suggests changes which will make them serve even better their purpose, the Nation's workers, and the economy.

The tone was not contradicted by the substance of the message.

The Fair Labor Standards Act was last amended in 1961. At that time, provision was made for a minimum wage of $1.25 an hour, to be reached after two years. Coverage was extended for the first time in a major way, mostly to employees of large retail stores and the construction industry. However, to secure these gains the Kennedy administration had been forced to abandon efforts to cover workers in large launderies, restaurants, and hotels and had accepted some minor, but annoying, reductions in existing coverage.

The first surprise in the Johnson message was in the number of workers for whom coverage was proposed. Instead of the 2.5 million workers to whom coverage had been promised in the State of the Union Message, coverage was proposed for 4.6 million. Not only would employees in large launderies, restaurants, and hotels be covered, but an additional 1.5 million employees in retail stores, nearly 900,000 employees in hospitals, and workers in many smaller industries, employees of logging contractors, taxicab drivers, employees of motion picture theatres and so on.

In a bigger surprise, the bill that accompanied the message did not stop with extending coverage. It went on to revive a proposal widely discussed but not acted upon during the 88th Congress, requiring the payment of double time, rather than the present time and one-half, for hours worked over 40 in any workweek. The object of this proposal is, of course, to spread the available work among a greater number of employees, thus reducing unemployment.

The earlier version of this proposal would have made a determination of the need for such a work-spreading measure in each industry, using a tripartite industry committee procedure, which most critics found needlessly cumbersome. In the new version, President Johnson recommended that double time be paid in all industries presently within the scope of the Act, but only after 48 hours of work in a week, reducing this standard by one hour weekly each year until a standard of 45 hours is reached.

Data from a recent study by the Bureau of Labor Statistics has shown that 62.5 million

[3] For the complete text, see *Current History*, page 106 of this issue.

hours of overtime are being worked each year by almost 8 million employees presently subject to the federal wage and hour law. Approximately 16.8 million of these overtime hours are worked in excess of 48 hours a week. This is the equivalent of some 400,000 full-time jobs. Hopefully, the enactment of the doubletime proposal would result in the creation of 200,000 to 300,000 new jobs for the unemployed.

President Johnson did not recommend either a higher minimum wage or a reduction in the 40-hour statutory work week in his message. But, quite unexpectedly, he discussed both matters.

On the question of a higher minimum wage the President was caught in a dilemma. In 1964, in connection with the antipoverty program, the figure of $3,000 annually was widely circulated as marking the line between poverty and a minimum acceptable income. A minimum wage of $1.25 an hour, which yields for a year's full-time employment only $2,500, was obviously inadequate. An hourly increase of 25 cents would seem a necessity to reconcile the two figures and the two programs.

Yet, as a longtime member of the Congress, President Johnson was surely aware of the unhappy experience of President Dwight D. Eisenhower when he unwisely committed himself in 1955 to a specific increase in the minimum wage, 90 cents an hour, which was substantially lower than the $1.00 rate then being discussed and considered reasonable by members of the Congress. At that time, when Congress passed a bill increasing the rate to $1.00, the President was left in the unenviable position of either having to veto the increase, or to approve it and admit that his support of 90 cents was, at best, niggardly and, at worst, a dishonest attempt at figure-juggling.

President Johnson wisely chose to avoid this trap. He was well aware that the A.F.L.-C.I.O. was supporting an increase to $2.00 an hour and would hardly settle for less than an immediate increase to $1.50. At the same time, he could have refused to support any increase in the present rate, as his initial failure to mention an increase had led the public to expect. Instead, the President raised the question and then continued:

> . . . As average wages rise, the minimum wage level should be increased periodically.
>
> The question is not whether the minimum wage should be increased but when and by how much. The Congress should consider carefully the effects of higher minimum wage costs on the incomes of those employed, and also on costs and prices, and on job opportunities—particularly for the flood of teenagers now entering our labor force.

That President Johnson did not intend to commit himself to any specific increase in the minimum wage by this statement was obvious. But what he did intend became the subject of some controversy. The only thing that was clear was that, by raising the question of an increase in the minimum wage in his message, the President had taken a step closer to the support of such an increase than was indicated by his State of the Union Message.

Actually, a careful reading of what the President actually said may indicate what he had in mind. He advocated increasing the minimum wage to keep it in step with the movement of wages generally. In the past, the general measure of wage movements for such purposes has been the change in average hourly earnings in manufacturing. From the effective date of the $1.25 minimum wage, September, 1963, to March, 1965, manufacturing wages have increased from $2.47 an hour to $2.60, or 13 cents. Rounding this amount to the nearest five-cent interval, as Congress has customarily done, one gets a rate of $1.40 an hour. Clearly, the reason the President did not mention any amount was that he would thereby run the risk of finding himself in the same position as had President Eisenhower.

What is far less clear, but probably much more significant than this rather obvious tactical maneuvre is the meaning of the President's concluding reference to the need for the Congress to consider carefully the effect of a minimum wage increase on job opportunities for teenagers. Past administrations, including that of President Eisenhower,

had always considered that the minimum wage was the lowest wage to be paid to any worker fully competent to hold a job. Thus exceptions had been made for the handicapped, apprentices and, in a very limited way, for "learners," those workers who required a short break-in period to acquire sufficient skill to earn the minimum wage on certain piece-work jobs. All told, in any year the total number of such exceptions had seldom exceeded 50,000.

For all others, the minimum wage specified in the Act was to be the lowest amount paid. If experience or training were not required in order to perform the job properly, there was no reason for paying any lesser rate.

However, the Johnson message could be read as suggesting the need for an entrance rate for inexperienced workers. This, in turn, might open the way for a bi-level minimum wage; an entrance rate for the inexperienced, and a higher rate for the worker with a substantial job history.

If this were what was being suggested to the Congress, it opened the way to an entirely new concept of a minimum wage. If the inexperienced worker, who is usually also the young worker without family responsibilities, is to be paid a lower rate than the experienced worker, then might not it be possible to set the rate for the latter at a level approximating a living wage? This would base the minimum on a concept which had hitherto been considered socially desirable, but economically impossible.

By mentioning the length of the statutory work week, President Johnson opened up another area for discussion. President Johnson, like President John F. Kennedy before him, was on record as firmly opposed to any reduction in the work week. In his 1964 Economic Report he had noted, under the heading, *Working Hours:*

> We should and will solve our present unemployment problem by expanding demand, not by forcing the standard work week down to 35 hours. This would only redistribute work, not expand it.

But the 1965 Labor Message said:

> It has been urged that consideration be given to a reduction in the statutory workweek—the weekly period after which premiums or penalties must be paid.
>
> The developing pattern of collective bargaining reflects changes which are taking place in the practices regarding the length of work periods—daily, weekly, annually, and in terms of the individual's work life.
>
> I do not think the time for change in the law has come, except with respect to excessive overtime. Careful attention to these developments is nevertheless appropriate and desirable. I am accordingly requesting the National Commission on Technology, Automation, and Economic Progress to include on its agenda full consideration of the matter of "work periods."

It is not possible to explore the implications of this change here, nor is it necessary to do so. This is a question for the future programs of the Administration. The matter has been postponed, at least until the National Commission makes its report next January.

This part of the Labor Message seems to indicate a major shift in Administration thinking about the unemployment problem. Taken in conjunction with the firm recommitment to the double-time proposal, with its obvious work-spreading implications, we appear to have an admission that "expanding demand" will not by itself "solve our present unemployment problem."

These were the major, but not the only, unexpected items in that portion of the Labor Message which concerned amending the Fair Labor Standards Act. Among those of lesser importance, two at least are likely to attract future attention and should be mentioned. Buried in the attached bill was a proposal to require that overtime be paid to *salaried* workers on the basis of the assumption that their salary was for 40 hours only. In the past, it has been assumed that, unless specifically stated as covering a certain number of hours, a salary completely compensated its recipient for all of his working hours. Any overtime due under present legislation is considered as only an extra half-time penalty payment for the hours worked over 40. Today, the rate on which this is computed is obtained by dividing the salary by whatever

total hours are worked in the week in question. As a result, the overtime rate and the proportional overtime penalty get smaller as overtime hours increase.

If the new proposal means what it seems to mean, in the future, salaried employees will have their salary divided by 40 in all overtime weeks and penalty overtime will be computed by multiplying the rate thus obtained by one and one-half and then by the number of hours worked over 40. For example, under the present law, a salaried employee receiving $100 a week, who works 50 hours, is due an extra $10 as an overtime penalty. Under the new proposal, the employee would be due an extra $37.50. As the example suggests, this amendment would mean that overtime costs for many salaried employees, and there are hundreds of thousands of them subject to the Fair Labor Standards Act, would be more than tripled.

The other proposal which should be noted was to extend the period for which back wages are due and collectable in the courts under the Act from two years to three. This is a step in the direction of regaining the original period of four years, the "statute of limitations" in the original Act. This had been reduced to the present two years when the Act was amended in 1949. Such a change would put additional teeth in the enforcement provisions of the wage and hour law.

UNEMPLOYMENT COMPENSATION

Despite the fact that unemployment has been a major problem for every President in the past generation, the major program designed to alleviate the conditions of the unemployed—the federal-state unemployment compensation system—has not been changed in any substantial way since its inception in 1935, 30 years ago. As a result, its current benefits are, in many ways, less adequate than its original benefits.

President Johnson's proposal that all states be required to pay unemployed workers benefits equal to at least 50 per cent of their average weekly wage is, for example, only the restoration of the original minimum jobless payment standard, met by most states in 1935. Today, only 11 states meet this standard. The President's proposal would require states to increase benefits to this proportion or have their employers forfeit part or all of the tax credit allowances they now receive from the federal government.

President Johnson chose to emphasize the provision for a program on a permanent basis of extended federal benefits to the long-term unemployed, those out of work for over six months. For such unemployed, who now number monthly nearly half a million workers, this program would provide an additional 26 weeks of benefits after their regular benefits had been exhausted. This proposal would make permanent a program which has already twice been found necessary on a temporary basis during recent recessions, not only to relieve suffering, but also to keep the unemployment compensation funds of several states solvent.

The program would also extend the required coverage of state programs to include all employers with one or more employees. At present, only those with four or more are required to participate. It is estimated that this would add some 1.8 million workers to the estimated 42.5 million now protected by the system. Other changes, such as the coverage of employees of nonprofit institutions, employees of large farms, those engaged in processing agricultural products, and truck drivers employed on a commission basis, would bring the total of newly-protected workers to nearly 5 million.

On the other hand, the bill which accompanied the President's message would also stiffen the penalties for fraud in obtaining unemployment compensation benefits. Disqualification for up to 52 weeks would be imposed.

The bill would also make easier and more uniform the payment of benefits to workers undergoing training. It would also permit the temporary disqualification of workers who refuse to accept opportunities for training or who leave training before completing it.

Finally, to cover the added costs of the revisions, the proposal of the President would

increase the current social security tax on employers from 3.1 per cent to 3.25 per cent. More importantly, it would raise the taxable wage maximum from $3,000 (1964) to $5,600 in 1967 and to $6,600 for 1971 and thereafter. The substantial amount of this increase in taxable wages is one of the best rough measures of the extent to which this program has been allowed to become obsolete. The $3,000 limit on taxable wages was set and has remained unchanged since 1939. In 1935, when the law went into effect, there was no limit on the amount of taxable wages.

SECTION 14(b) OF THE TAFT-HARTLEY ACT

President Johnson's statement on the repeal of Section 14(b) contained no surprises, except to a minority of observers who had expected additional proposals:

> . . . with the hope of reducing conflicts in our national labor policy that for several years have divided Americans in various States, I recommend the repeal of section 14(b) of the Taft-Hartley Act with such other technical changes as are made necessary by this action.

It is true that there were no surprises in this part of Johnson's policy on labor. Yet nowhere else in the President's statement is the Johnson approach to our national problems more apparent. Consensus is to be sought and found, not by policies to compromise differences, but by acts to eliminate the bases for these differences.

The President's statement thus starts from the fundamental basis of our national labor policy in the area of union security, that laid down in the Taft-Hartley Act, an act which, as a member of the Congress, the President supported in 1947.

The conflict in our labor policy to which the President referred in his message lies in Section 14(b) of the Act, which in effect preserved the right of the individual states to enact "right-to-work" laws forbidding the union shop and other forms of union security.

As the question of "right-to-work" laws, their nature and effects, is considered at length elsewhere in this issue,[4] further details of the history of Section 14(b) are not needed here. However, this portion of the Labor Message should be related to the overall Johnson labor policy, to set these new proposals and revisions in context.

The labor policy of the Johnson administration may be compared to a set of nested "boxes." The outer box is our national labor policy of maintaining full employment and economic security under conditions of balanced and sustained growth.

MANPOWER AND INCOME POLICIES

Within this outer box are two boxes, one labeled, "manpower policy," the other, "incomes policy." The one marked "manpower policy" concerns the supply side of our labor policy. The primary concern of manpower policy is the maintenance of full employment and, under present conditions, the reduction of unemployment. The one marked "incomes policy" concerns the demand aspects of our economy. Its primary present concern is the maintenance of a reasonably stable price level.

Within these two boxes many programs may be found. Some programs belong in both boxes, as they affect and concern both the supply and the demand sides of our economy. From this multitude of programs, the President singled out a few in his Labor Message, for the special attention of Congress in 1965.

It is not difficult to see that the proposals to amend the Fair Labor Standards Act and to strengthen and modernize our unemployment compensation system contribute to maintaining full employment and to the reduction of the problems of unemployment.

(*Continued on page 115*)

James R. Wason served as an economist with the U. S. Department of Labor from 1950 to 1962 before joining the Legislative Reference Service. He is the editor of *National Labor Policy,* the handbook being prepared by the Service for use in the 1965–1966 N.U.E.A. debate. Mr. Wason has also been a lecturer at George Washington University since 1956.

[4] See pages 85ff. of this issue.

Although there is still considerable debate as to the role that automation will play in the world of tomorrow, this author holds that "technological change, mechanization and automation have had a historically beneficial impact upon society and that their imprint on the future will be even greater. However, the design of that imprint on employment, income, and on our overall way of life," he continues, "can and should be a matter of choice. How society, industry and labor respond to the challenge . . . will, in large measure, determine that choice."

The Challenge of Automation

By G. Randolph Comstock
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Technological change is not a new phenomenon. The use of the lever, the invention of the wheel, the steam engine, and the development of electricity had an impact upon society that rivals even the most spectacular advances of this century. Because they are always associated with change, mechanization and emerging technology have presented both challenge and opportunity to society at least since the onset of the Industrial Revolution.

Some observers, however, feel that the world is caught up in a "second industrial revolution," vastly different from the first. Present concern—that the dimensions of technology have changed; or that the rate of change is accelerating—can be attributed to a popularization of the generic term "automation" to describe virtually all forms of technological development. In its original application, this convenient word represented nothing revolutionary.[1] But the original meaning was soon lost in a sudden and often emotional rush to adapt and redefine the term to suit numerous needs or fears. The result was, and still is, considerable confusion.

A corollary tendency on the part of economists, industrialists, labor leaders and journalists to use such terms as technological change, mechanization, automation, cybernation and productivity sometimes synonymously, and at other times with divergent meanings, has compounded the confusion. In the name of consistency and clarity, the technical meanings of the words will be used here.

"Technology," to an economist, is that body of knowledge—or combination of techniques—by which man is able to combine all his available economic resources and convert them into goods and services to satisfy human wants. Technology, clearly, is a dynamic process. A "technological change," improving the efficiency with which the transformation of resources into goods and services takes place, may take a multitude of forms, including the use of new materials, new processes, alterations in the form of business enterprise, the introduction of new or substitute products, shifts in the location of industry to ac-

[1] The phrase was coined by D. S. Harder, vice president of manufacturing for Ford Motor Company, in 1947, to describe what has been called "Detroit-type" mechanization: linking successive machine stations by automatic transfer or positioning devices. Apparently, the term was coined independently by John Diebold at about the same time, with a broader meaning. (See Hearings, Subcommittee on Employment and Manpower of the Senate Committee on Labor and Public Welfare, Eighty-Eighth Congress, First Session, May, 1963, Part 5, p. 1514.

commodate resources or markets, the specialization and division of labor, and even managerial decision-making.

"Mechanization" can be accurately applied only to one specific development in technology: the substitution of machinery for human or animal labor. "Automation" involves the replacement of a human operator by automatic control devices. "Cybernation" is a refinement which applies a computer as a decision-making device to control an automatic process. "Productivity," usually measured in output per man-hour,[2] is the accepted standard by which most, but not all, of the impact of technological change on employment is measured.

If the elements of technology can be simply defined, why should two of these elements—cybernation and automation—be the subject of great differences in interpretation and be singled out for special consideration? The answer, it appears, lies in differing views as to the potential effects of automation and cybernation on employment, income and leisure time. In these areas of intimate concern—where each man is his own expert—the literature and oratory regarding automation (broadly defined) have evoked considerable controversy.

Space will not permit a comprehensive examination of this controversy; nevertheless, it is relevant to note that this discussion ranges between those who regard automation and cybernation as differing little from any other technical advance in our history and those who fear that the new technology is so different, both in kind and degree, that they prophesy a changed world. In this world, machines, with few exceptions, will make man's labor permanently redundant[3] and computer-controlled machines will perform all the work necessary to supply man with an abundance of goods and leisure. Man will then (according to this view) be entitled to an income, not as the reward for effort, but as a matter of right.

A pragmatic test of this "utopian" hypothesis is not possible. Such predictions, at best, are subjective judgments of the future and, at worst, are predicated on the assumption that we are living in a period when history has become discontinuous. As yet there is no substantive proof that automation, or increased technological change generally, is of an order which is a clear "break with history."

The best remaining ground on which to take refuge accords with the view that technological change, mechanization and automation have had a historically beneficial impact upon society and that their imprint on the future will be even greater. However, the design of that imprint, on employment, income and on our overall way of life, can and should be a matter of choice. How society, industry and labor respond to the challenge of our new technologies will, in large measure, determine that choice.

THE IMPACT OF TECHNOLOGICAL CHANGE

A review of history cannot prove anything about the future. Many have discovered—at great cost—that the past is not necessarily prologue. Nonetheless, the impact of technological change over the years should be considered.

Perhaps the most common indicator of the rate of technological change in use today is labor productivity expressed in terms of output per man-hour. Some care needs to be exercised, however, in using labor productivity for this purpose, because it is a measure not of technology, but of the economic impact of technological change. Data on output per man-hour reflects changes (e.g., rates of investment, scale and method of opera-

[2] Output per man-hour is derived by dividing the value, in constant prices, of the yearly output of the economy, or a particular industry, by the total number of man-hours worked. Output or productivity is a dollar figure but the increase in output per man-hour is a percentage figure.

[3] See *The Triple Revolution* (a March, 1964, statement made by the Ad Hoc Committee on the Triple Revolution and sent by letter to the President of the United States, the Secretary of Labor, and the Majority and Minority Leaders of the Senate and House of Representatives). Also see *Cybernation: The Silent Conquest,* by Donald N. Michael (Santa Barbara: Center for the Study of Democratic Institutions, 1962). In rebuttal, see *The Automation Hysteria,* by George Terborgh (Washington, D.C.: Machinery and Allied Products Institute, 1965).

tions, rising levels of education and skill in the work force) that alter the labor requirement per unit of output but such data does not identify or weigh those changes.

Nonetheless, if it is remembered that technological change is that which permits increased efficiency in the production of goods and services from available resources; and also that output per man-hour productivity data merely reflects year-to-year changes which permit a unit of output to be produced more efficiently by reducing the labor requirement, output per man-hour comparisons may be used to measure the impact of technological change over a period of time.

Where the impact of technological change on employment is of prime concern, output per man-hour is a particularly useful tool. Any change in employment will alter the ratio between output and output per man-hour. Then, too, changes in other variables will influence the level of employment. As long as output increases more rapidly than output per man-hour, employment will increase. Where output per man-hour rises faster than output, employment will decline. Historically, the overall output of the American economy has increased at a rate more than adequate to compensate for the impact of productivity increases and the result has been steadily rising total employment.

Because output per man-hour[4] is sensitive to many fluctuations in the economy, short-run changes should be considered cautiously. Where many variables are involved, it is desirable to allow time for them to interact and smooth out sharp swings in the trend line. For that reason, five-year trends may be considered useful indicators and ten-year trends a fairly firm picture of the rate of technological change.

Agriculture is certainly a prime example of the impact of increased productivity over time. In the early 1800's about 75 per cent of our working population was employed on farms. This figure was reduced to 40 per cent at the turn of the century and is around 5 per cent today. All of us—farmers included—now enjoy a much better life than we could if most of our population was engaged in agricultural pursuit. The farmer is able to purchase more industrial products than ever before, largely because he is able to feed more industrial workers.

Technological change may also be given the major credit for the rising standard of living in this country. Annual per capita disposable personal income rose from $1180 in 1930 to $2248 in 1964 (1964 prices). Apace with increases in incomes, leisure time has also risen as average annual hours of work per member of the population fell from 2,600 in 1900 to 1,600 in 1960. The long-run benefits of rising productivity—a higher level of technology—could be dramatically pointed up by saying, for example, that production of the 1929 Gross National Product using today's methods would require the labor of only 26 million persons working a 40-hour week. Conversely, the present $600 billion annual output, using the technology of 1929, would require every member of our present labor force of 70 million persons to work over 90 hours each week.

Hopefully, the social progress that has been characteristic of our economy in retrospect will continue. But when one turns from a portrayal of the past or present to predict the future impact of technological change upon society, the nature of the task is very different. It is no longer possible to measure actual economic impact, or to resort to handy examples and statistics. Still, the tools of experience, judgment and perspective are available.

Without making an effort to specify the application of future technological change, in time or degree, it is clear that in 1965, 15 years after the earliest grim predictions were made that automation and cybernation would rapidly replace human labor in industry,[5] no major product in any American industry is being produced by a fully automated process. Neither does it appear that there will be any

[4] Since there is no adequate way to measure the productivity of public employees whose product is not produced for sale, output per man-hour comparisons ordinarily include only private employment.

[5] See Norbert Weiner, *The Human Use of Human Beings* (Boston: Houghton Mifflin Company, 1950), p. 189.

such development in the immediate future.[6] Today's technology offers the only practical key to maintaining our present high level standard of living and promises much in the way of even greater advance. Therefore, we must learn to understand, control, and direct it into avenues of increasing human betterment.

THE CHALLENGE OF CHANGE

Undoubtedly, the chief concern of most people who fear the effects of automation on the economy is that the displacement of men by automatically controlled machines means a permanent replacement as well, i.e., permanent unemployment. Both logic and the industrial experience of our nation contradict such fears. The invention and production of countless products which typify today's markets came into being at great cost to some other product, process or person. It is true that in some cases the employment resulting from technical or product innovation is less than the employment destroyed by such innovation, yet in a majority of instances the reverse is true. Really successful technological changes develop new and expanded markets. In these cases (for example, the automobile, the telephone, television) the product is increasingly used and thus more people are employed in its production.

Oil refining and telephone communications are industries in which automation has been extensively applied for many years. In oil refining, employment has increased more than 175 per cent since 1920, and in the operating telephone companies it has increased over 130 per cent. In each case, the rate of increase is well in excess of the rate of increase in employment in the economy at large.

Within the past 35 years, there has been a growth in the labor force of from 50 to 75 million persons—a 50 per cent increase—with an accompanying increase in employment of 23 million. This tremendous absorption of new workers into the economic system has been made possible by the job creation and job reallocation effects of technological change. Had it not been for the technical advances of the past two decades, unemployment at present wage levels would exceed that of the early 1930's.

THE DISPLACED WORKER

However, in extolling the virtues of an economic system that grows in strength and size through the demise of its weakest part, the problems faced by the individual should not be overlooked. To the displaced worker it makes little difference why he is unemployed —be it automation, or a declining demand for his employer's product—he is not easily persuaded that the net benefit to society compensates for his personal loss or inconvenience.

Perhaps most important is the development of an attitude—on the part of each individual and of society as a whole—that change is vital to a dynamic economy. Automation, for example, will and should bring about a reallocation of job opportunities. People will shift from lines of work in which their services are no longer needed to other and often better jobs in order to satisfy the wants of society. Unfortunately, those who become displaced by a new technology are not always equipped for job opportunities generated by the new technology, nor are there always other jobs available.

Acceptance of these facts leads to certain conclusions. First and foremost, of course, a major effort is needed to increase the levels of education and skill throughout the entire nation with special emphasis upon the needs of those disadvantaged by the new technology. The current debate over the effects of automation and cybernation upon education and skill levels has been largely directed to those areas of employment that are subject to the introduction of automated or cybernated techniques. In that sense, the debate is tragically misdirected. The number of jobs in the newly automated process will probably be reduced in any event. The relevent issue is: what are the skill and education requirements for the jobs that remain and for the new jobs created by expanded production?

[6] See Charles E. Silberman, "The Real News About Automation," *Fortune*, January, 1965, p. 125.

There is ample evidence that levels of education and skill in the labor force have risen markedly since the end of World War II. At the same time, educational requirements for new entrants into the labor force have also risen; in part as a natural selection device by employers. For a large number—the high school dropout, the older worker who is displaced, the Negro youth—the gap between education and employability continues to widen. Statistically, the result of this trend can be observed in the disproportionate representation of these groups among the so-called hard-core or long-term unemployed.

As to a remedy for this disparate circumstance, only a national commitment to develop a better educated, more flexible and adaptable labor force will relieve those who bear the burden of technological progress. Proponents of the idea that education should be made available (if not compulsory), for at least two years beyond high school are hopeful of making formal education and training a more reliable means of entry into the world of work. More recent emphasis on elementary and secondary school curriculums, and "Project Headstart" for pre-schoolers will be of significant value. Educational improvement will also go a long way toward refuting the claims of those who argue that a large portion of the population lacks the native ability or desire to absorb sufficient education and training to participate productively in a highly sophisticated, technically oriented society. This questionable premise cannot be supported by proof until educational opportunities are broadened widely.

An equally compelling national challenge—to allow maximum adjustability to automation, cybernation and all technological change—is the goal of a dynamic, growing, full employment economy, in which all who are willing and able to work are afforded the opportunity to do so. It is not true that machines will render man's labor obsolete to the extent that gainful employment cannot be provided to all who seek it. Such an argument proceeds from the faulty assumption that the demand for goods and services in our affluent society is at or near the point of satiation. On the contrary, one-fifth of American families have incomes under $3000 per year, and only one family in fourteen has an income above $15,000 per year.

Today, with private employment of 60 million persons and a 3 per cent annual productivity increase, the output of the economy must grow at a rate adequate to generate 1.8 million jobs per year to avoid an increase in unemployment for technological reasons. Said another way: with productivity rising at a rate of 3 per cent annually, a constant output would result in the elimination of 1.8 million jobs.

In addition to economic growth sufficient to offset a rising level of productivity, output must also grow to absorb the annual increases in the labor force—now estimated to average 1.4 million per year until 1970. Adding the number of jobs required annually to accommodate labor force growth and those needed to offset annual productivity increases, it is clear that the economy must create 3.2 million new jobs each year to prevent increasing unemployment. The fiscal and monetary tools of the federal government are equal to the task of maintaining a level of demand that would call forth this kind of output. The persistence of unemployment levels above 4 million persons, however, is evidence that we have not yet committed our resources successfully to meet this challenge.[7]

To adjust to technological change on a national scale, obstacles to the free mobility of labor—where they exist—must be overcome by the establishment of a more effective, public, nationwide means of disseminating information regarding new employment opportunities; by provisions for financial aid to help defray the costly burden of severing ties in one community and moving into another; by offering facilities for counselling those persons who cannot make an adequate transition from one environment to another without outside assistance. And each of these

[7] For a discussion of policies needed to reach this goal, see "Toward Full Employment: Proposals for a Comprehensive Employment and Manpower Policy in the United States," Subcommittee on Employment and Manpower of the Senate Committee on Labor and Public Welfare, April, 1964.

measures must include appropriate concern for the dignity and fears of those involved.

ROLE OF THE UNION

In addition, confidence in private adjustment mechanisms developed through the collective bargaining process must continue. This is fundamental to an upward economic evolution in a free society. The labor union's primary function is to protect the economic well-being of its members. Unions, therefore, must understand forthcoming developments in technology and aid their members accordingly, by negotiating means of adjusting to loss of jobs, change in skills or plant relocation.

By and large, American unions do not oppose technological change, but they try to capture part of the benefits of a rising productivity for remaining workers in the form of higher wages and supplemental benefits. Although many would advocate a spreading of the benefits of productivity through lower prices, in actual practice the major gains accrue to the wages of those remaining employed and to profits for industry. There seems, however, to be a growing consensus that the human costs of technological displacement should be paid by those who benefit from it; some of the gains from productivity should be applied to measures for easing the adjustment process. Labor's efforts in this area have been particularly successful in recent years. This is apparent in the increasing number of contract provisions for shorter hours, early retirement, supplemental unemployment benefits, rights of seniority transfer, separation pay in lieu of transfer, moving allowances and current support of such benefits as a guaranteed income, and the vesting of pensions.

Attempting to adapt traditional concerns of labor to the modern industrial scene, with its increasingly rapid rate of technical innovation, organized labor has introduced a basic change into the collective bargaining posture. That change is clearly evidenced in labor leaders' current emphasis on wha they view as a new management responsibil ity, to provide advance warning regardin the potential effects on employees of planne technological changes. Also, there is greate emphasis today on the concept that an em ployee builds property rights in his job, an should therefore be entitled to favorable op tions of transfer or retraining in the face c technological displacement.[8]

ROLE OF MANAGEMENT

On the other side of the table, manage ment faces three significant challenges in a era of automation and technological chang generally. First, ever-present economic pres sures to protect or enhance its competitiv position force management to develop an implement new technologies. Traditionally the profit motive has generated economi pressure sufficient to call forth new tech nologies when they become economicall feasible. Research and development expen ditures will continue to increase as each in dustry, plant, and manager seeks new prod ucts and more effective ways of producin for the markets of the future. Second, man agement leaders must adapt in a variety c ways to new technologies within their ow firms. Third, to the extent that workers ar permanently displaced and face unemploy ment, management must define its responsi bilities, if any, to the displaced worker.

The second and third items involve ques tions of new managerial roles and skills, i the wake of computerized information stor age and decision-making systems; the train ing and retraining of workers; advance plan ning independently, and through the collec tive bargaining process, for orderly change in labor reduction; plant relocation; an product or process modifications that alte

(*Continued on page 114*)

[8] See Walter P. Reuther, "Congressional Testimony" in *Automation, Implications for the Future* (New York: Vintage Books, 1962).

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The N.L.R.B. has supported the development of collective bargaining and its procedures. This, as the author points out, has in turn "permitted the growth to considerable power of a limited purpose labor movement whose commitment to the social order is unparalleled among industrial nations."

The National Labor Relations Board

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The present role of the National Labor Relations Board (N.L.R.B.) cannot be divorced from its historical antecedents. The Congress which passed the Taft-Hartley Act in 1947 had as a guide 12 years of experience with the Board under the Wagner Act. By and large, the legal protections accorded to unions as formulated by the Board and enforced by the courts were continued without major change. The passage of the Taft-Hartley Act thus can be considered as a congressional endorsement of the principles of collective bargaining which, on the federal level, had first been enunciated in 1898 in the Erdman Act. In the same sense, the amendments to the Taft-Hartley Act which were incorporated in the Landrum-Griffin Act (1959) represented no break with past national labor policy.

The labor policy of the United States reflected in the Taft-Hartley Act is complex in detail but simple in purpose: the promotion and encouragement of collective bargaining and the regulation of certain employer and union practices. On occasion these aims come into conflict and a balance must be struck.

The design of the Act in promoting collective bargaining is straightforward. The question whether a union should exist in any particular place of employment is to be decided by the employees themselves. This usually is decided in a secret ballot election conducted by the Board after which the representative selected by the majority represents all employees in the bargaining unit. Traditional employer practices which have interfered with employees' freedom of choice are outlawed and are designated as unfair labor practices. These include the discharge of employees for their union activity or threats to the same end, or promising them benefits for abstaining from their right to join unions. And most important, an employer is required to recognize and bargain in good faith with the union representing a majority of his employees.

Regulation of union conduct stems from a congressional desire, among others, to balance prohibitions against employers with similar restraints upon unions. Consequently, unions are forbidden to restrain or coerce employees, cannot cause employers to discriminate against workers, and are required to bargain in good faith with employers. A more important reason for legislative action was disapproval of certain union behavior, such as secondary strikes and boycotts, minority union picketing for recognition and the use of "hot cargo" clauses[1] as a power device—acts which were banned.

As an administrative agency, the N.L.R.B. has a variety of functions. Charges alleging violations of the Act and petitions requesting Board elections must be processed and dis-

[1] Clauses under which an employer agrees not to order employees to carry "hot cargo"—goods for another employer involved in a labor dispute.

posed of in accordance with the statutory mandate. This requires investigation, informal hearings which often result in an adjustment of the issues by agreement, or formal hearings before hearing officers, trial examiners, the Board and the courts.

Administratively the Board effectively is split into two bodies. The application of the general policy expressed in the Taft-Hartley Act to the specific cases raised is made by a five-member Board, each member of which is appointed by the President and confirmed by the Senate. The Board is located in Washington, D.C., and acts like a court in deciding litigated issues involving unfair labor practices and in deciding questions arising from Board-supervised elections. However, it must be emphasized that the Board is not a court, its orders are not self-enforcing, and any legal sanctions in a case come into play only when an appropriate federal court enforces a Board decision with its own order.

The other half of the N.L.R.B. operation is under the supervision of a General Counsel who is appointed by the President subject to Senate confirmation. The General Counsel also is located in Washington and is responsible by statute and by delegation from the Board for the investigation of all charges and petitions and for their prosecution. The cases themselves are filed in 30 regional offices scattered throughout the country where, after investigation, the decisions to proceed, adjust or dismiss cases are made by field personnel subject to internal review procedures. However, the General Counsel is responsible for all decisions either to issue formal complaints, or to dismiss charges as having no merit. He also acts as advocate for the Board before federal appeals courts and the United States Supreme Court.

The actual division of authority and responsibility between the General Counsel and the five-member Board and the role of the courts can be set forth as follows: The Board makes the ultimate determination within th agency of whether an unfair labor practic has been committed, subject to subsequen review and enforcement by the courts. Th Board also has exclusive authority to deter mine all contentious issues in election cases. On the other hand, in unfair labor practic cases, the five-man Board cannot act until complaint has been issued by the Genera Counsel or one of his regional office directors the decision to issue a complaint is exclusivel vested in the General Counsel and his refusa to do so is not reviewable by the courts.

BOARD PRACTICE IN ELECTION CASES

In pursuing the statutory objective of pro moting collective bargaining and protectin the rights of employees to join or to refrai from joining unions, the Board establishes th ground rules for employee elections. In larg part, these rules are purely procedural, suc as the requirement that a union must produc evidence that at least 30 per cent of the em ployees are interested in having it as thei bargaining agent, and the fixing of the time date, and place of the election. The electio itself is conducted by Board agents whos primary job is to safeguard the secrecy of th ballot. Unions and employers nearly alway exercise their right to have observers presen at all stages of the election from the votin to the tallying of the ballots.

The law specifically sets forth several stan dards affecting the electoral process. Thes concern employee eligibility and the frequenc of elections. The law does not cover suc employees as railroad and airline workers federal, state and local government employees agricultural workers, employees of nonprofi hospitals, domestic employees, independen contractors and supervisors. Since the basi of the Board's jurisdiction lies in employers activities affecting interstate commerce, th Board has always excluded from its coverag highly localized and very small firms. How ever, the Board's discretion in the directio of greater exclusions has been limited by th Landrum-Griffin Act.

These specific rules apart, Congress ha delegated to the Board wide discretion in the

[2] Technically these cases are not reviewable by the courts but as a practical matter employers can challenge Board decisions and invoke court review by committing an unfair labor practice. No similar avenue of appeal exists for unions for whom the Board's decisions are final.

administration of employee elections. The most significant difficulty and the source of most controversies lies in the determination of electoral units and the regulation of pre-election conduct.

ELECTORAL UNIT QUESTIONS

The most far-reaching consequences are involved in the question of which employees are entitled to vote in a Board election. Technically, this is known as the issue of what groups and classifications of employees are to be considered as appropriate for the purposes of collective bargaining.

The difficulties in determining the appropriate unit and the conflict of interests that it engenders are multifold. For example, in an industrial plant there are semi-skilled employees working on a production or assembly line, there are skilled mechanics, carpenters, machinists and electricians, who have special work places and duties and who have helpers of varying skills. There are also clerical employees who work closely with production workers, and there are office employees, such as secretaries, filing clerks and the like, who are separated physically from the rest of the plant. Such a firm, if large, may employ salesmen, draftsmen, engineers, technicians of various kinds, guards, truckdrivers, porters and sweepers, a doctor or two, nurses, cafeteria workers and others. Furthermore, the employer may have similar or different establishments across the street, or at the other end of town, 20 miles away or scattered throughout the state or nation.

Whatever unit or units are established will rub against someone's interest. If a single plant and all of its employees are considered an appropriate unit, a majority of the production workers may decide who is to represent all employees. There is reason to believe that this may be objectionable to secretaries, salesmen and other employees whose propensity for unionism is low. On the other hand, skilled craftsmen may already belong to a union and may fear a loss of their identity and a submerging of their interests if they are blanketed in with the production workers.

At the same time an employer will take different positions on the appropriate unit depending upon certain circumstances. If he is resigned to having a union among his production workers, he may resist any widening of the unit to include other employees. On the other hand, if the outcome is in doubt in the group where union strength is the strongest, he may try to increase the number of employees eligible to vote. This can be done not only by adding new classifications but by insisting that the unit should include branch plants. Of course, the same considerations affect a union which is attempting to organize a firm.

These are some of the problems which confront the Board in dealing with a representative industrial plant. But as cases arise, problems are magnified. What considerations must be taken into account if the plant has only 5 employees? or 50,000? What factors should be applied to the special circumstances of a hotel, a restaurant, a department store, a ship, or an insurance office?

In the welter of conflicting interests, the specific statutory guides are meager indeed. There is a prohibition against the inclusion of guards with other employees in the same unit, there are special voting provisions for professional and craft employees, and the Act contains an ambiguous statement to the effect that the extent of union organization shall not be controlling in unit determination. The Board is generally charged to find the proper unit "in order to insure to employees the fullest freedom in exercising the rights guaranteed by the Act" and this unit may be "the employer unit, craft unit, plant unit or subdivision thereof."

Over the years the Board has issued orders finding appropriate units in tens of thousands of cases and has developed an immense body of case law. What emerges from these decisions is the Board's concern for the community of interest of the affected employees. This consideration is the underlying rationale for its unit decisions which are adjusted to particular facts such as industry practices, the desires of the parties if they are in agreement, the employer's administrative structure and other factors. Accordingly, appropriate units

have been spelled out for practically all enterprises and these, in turn, serve as a guide to parties not involved in Board proceedings.

For most industrial plants, the standard unit includes all production and maintenance employees, excluding office clericals, supervisors, guards, professional employees and other similar employees. However, separate units for those excluded (except supervisors) are appropriate and the Board may also approve a unit for production workers only or maintenance employees only. In other enterprises, different standards have evolved. By the 1960's, the basic pattern for each industry had been laid down and the criteria fully developed. Contentious issues arise today mostly from the jockeying for position by the parties involved to include or exclude certain employees in order to influence the election result.

This does not mean that decisions changing or revising past standards do not take place. Within the last few years, the Board has reexamined the bargaining experience in the retail industry and insurance fields. In each of these cases, the Board declared more smaller units appropriate than it had formerly done. Hence, elections may now be held in one store instead of in an entire chain, the unit now may be insurance agents in a city rather than in the entire state, and nonselling department store employees may vote without being thrown in with sales employees.

Predictably, some employers have opposed these changes on the basis that it makes union organization easier. While this may be true, it appears that the purpose of the Act would be ill-served if units were chosen or retained in order to forestall or impede the rights of employees to choose unions.

ELECTION OBJECTION CASES

The Board traditionally has considered that valid elections must be conducted in an atmosphere free from interference from any source. Indeed, the Board's election procedures are aimed to achieve "laboratory conditions as nearly ideal as possible." When this standard is not met, a new election is ordered.

Problems inherent in Board regulation of preelection behavior are underlined by a consideration of the major reasons for setting aside elections. The most common are employer statements threatening to close the plant down if the union wins the election, threatening to discharge employees for their union activity and various related threats. Other examples of objectionable conduct involve serious misrepresentation of facts and inflammatory defamation of the union involved in the election.

While it should be understood that employers are free to express their opposition to unions in the strongest terms, the policing of speech activities is a troublesome area. There are shadings of meaning to speeches and many statements innocuous in themselves may have more ominous significance in particular contexts. The Board is confronted with the task of deciding on a case-by-case basis the limits to employer expression which, in turn, may prevent employees from making a free electoral choice. This is an exceedingly difficult area of operation since sometimes complaints are made that Board regulation infringes upon constitutionally protected free speech.

The number of election objection cases are not large. In the 1960's only about one per cent of all elections were set aside because of preelection conduct. In most of these cases, the condemned activity was committed by employers and in only half of these was coercion expressed in speeches. The bases for ordering new elections in the remaining cases included captive audience speeches to employees on company time and property within 24 hours of the election, granting of unexpected benefits just prior to the balloting, and physical intimidation of employees—all unacceptable employer practices.

However, the direct effect of setting aside elections appears to be minimal. Less than one-third of such new elections end up with a different result. A fuller understanding of the total impact of the election process can best be obtained by considering the Board's performance in employer unfair labor practice cases.

THE RIGHT TO ORGANIZE

The fundamental reason for prohibiting certain employer practices is to permit employees to select the union of their own choosing without undue interference, restraint or coercion.

By far, most employer unfair labor practices have their origin in employer resistance to organization. This most commonly takes the form of threats against employees for their union activity and various kinds of discrimination including discharge. No understanding of the Board's operation is possible without emphasizing this phase of its work.

The sheer volume of these cases is important testimony of a widespread rejection of the most fundamental principles of the law. The statistics of the past six years tell their story. In fiscal 1964, there were charges filed against almost 11,000 employers and in at least one-third of these a violation of the law took place. By contrast, in fiscal 1958, the number of such charges and violations were half of this number.

Is it possible to conclude that the number of charges and violations are evidence of serious shortcomings in the administration of the Act? Should not 30 years of experience under a national labor law have resulted in fewer cases and more compliance?

The answers to these questions lie partly in a consideration of the nature of the Board's administrative practices. The Board is an administrative agency and not a court. An employer's violation of the Taft-Hartley Act is not a crime but a civil wrong. Meaningful enforcement of the law requires a judicial decree which takes time. Any employer who desires to litigate can fend off compliance for years, after which the interest in unionization as well as its initial impetus may well have been dissipated.

Furthermore, the ultimate enforcement of a Board order does not carry with it any possible penal action. The thrust of the law is to remedy a violation by restoring the *status quo* prior to its commission. This is done, by and large, through the posting of a notice by the employer in which there is acknowledgement and apology for the violation. For employees victimized for their union activities, jobs are returned and any lost pay is repaid.

Without question a determined effort by employers to oppose unions by flagrant violations of the law does occasionally succeed in frustrating the national policy. And to the extent that the Board's policies do not always provide for adequate and realistic remedies, there exists considerable room for improvement.

But criticism of the Board's effectiveness cannot be pushed too far. It must be recognized that for many years the overwhelming number of charges brought against employers have been closed prior to litigation. In recent years less than five per cent of all cases have reached the Board for formal decision and barely two per cent required court enforcement.

In other words, a violation of the Act ordinarily results in a speedy disposition of the charges and most employers do not elect to buy time by choosing to litigate. The remedies taken in the noncourt cases usually result in a change of employer behavior which furthers the purpose of the Act.

An appraisal of the Board's experience in protecting the right to organize leads to the following conclusions: 1) A very large number of employers are opposed to the organization of their employees and this opposition takes the form of unfair labor practices; 2) the invocation of Board machinery in most of these cases results in a correction of employer behavior through informal means, and; 3) the determination of some employers to combat unionism by all means fair and foul has been strengthened by the failure of the N.L.R.B. to tailor its remedial powers to cover these situations.

But not all results of Board influence can be found in its statistics. The very existence of the law has affected the behavior of employers. Profound changes in employer methods of avoiding unionization which are not considered unfair labor practices must also be recorded and acknowledged.

Today the question of collective bargaining is founded on a political act of employees. It

is their decision which the law supports in direct contrast to the past when the existence of bargaining was a function of relative economic power. Both employers and unions must now address their efforts to persuade employees of the virtues and benefits of their respective positions.

The inability of unions to make dramatic new advances in the recent past is due only partly to employer actions. It is due also to employers' efforts (as evidenced by personnel and wage policies) to demonstrate that unions are not necessary for employee welfare. A beneficent byproduct of the Board's existence has been the creation of this new form of employer competition with unions.

THE PROMOTION OF COLLECTIVE BARGAINING

The protection of the rights of employees to organize is a preliminary and essential step in the promotion of collective bargaining. The most important element which furthers bargaining is the imposition on employers of a duty to bargain in good faith with the majority representatives of their employees.

The duty to bargain can justly be considered the heart of our national labor policy. The right of employees to organize would be futile if employers could refuse with impunity to meet with unions or engage in conduct which was inconsistent with a desire to establish collective bargaining.

A union which wins a Board election receives strong support from this bargaining provision of the law. In a process of development whose origin preceded the Wagner Act, the duty to bargain requires an employer to take some steps and to refrain from taking others. For example, an employer must furnish information which is relevant to bargaining; he must discuss a wide range of subjects; and, while concessions are not required, he must in good faith attempt to reach an agreement. In addition, he cannot bypass the union by negotiating directly with his employees and he cannot change the conditions of employment without prior discussion with the union.

The duty to bargain also covers the relationship between parties with a past history of bargaining and imposes the same requirements on them. However, recent studies have revealed that most violations of this section stem from initial bargaining and involve fundamental violation of the law.

In practice, this provision works remarkably well. While the concept of good faith may appear nebulous philosophically, in the context of a particular bargaining relationship, its meaning is both concrete and clear.

The forces responsible for the success of the duty to bargain are similar to those discussed previously in organizational matters. Apart from formal Board sanctions, formidable legal support is given to a union which engages in a strike precipitated or caused by an employer's refusal to bargain. But the primary reason for compliance rests upon employers' readiness to be guided by the law in their bargaining behavior. Again, there must be no ignoring the fact that current Board remedies are incompetent to cope with some recalcitrant employers.

THE REGULATION OF UNION BEHAVIOR

The Congress which passed the Taft-Hartley Act had the legislative opportunity to make fundamental changes in our national policy. It has already been noted that the protection of collective bargaining incorporated in the Wagner Act was kept intact. Congress further decided that the public interest required certain curbs on some union activities. These roughly can be classified in three groups.

The first encompasses prohibitions aimed at equalizing employer with union unfair labor practices. Here belong the outlawing of union restraint and coercion upon employees, prohibition of union-caused job discrimination, and a requirement that unions bargain in good faith.

The scope and impact of these restraints vary widely. Since unions exist for the purpose of bargaining, the duty to bargain plays a minimal role in their unfair practices. Most of the cases against unions arise from technical failure to comply with certain procedural rules although sometimes unions have been found derelict in attempting to impose

a master contract on a take-it-or-leave-it basis upon small employers. The Board corrects these situations without any difficulty.

The restriction on union restraint and coercion ordinarily comes into play when union agents physically intimidate employees. Some types of mass picketing also fall into this category. Since these activities are criminal offenses for which police sanctions are usually available (which go far beyond available Board remedies), their practical consequences do not appear to be very important. However, they become significant in the event of a breakdown of local law enforcement. In a few cases of this kind, the Board has been successful in obtaining a federal court injunction directed against union-sponsored violence and mass picketing in the face of the indifference or helplessness of the local police and judiciary.

The prohibition against union-induced job discrimination was put into the law to widen the liability for participation in unlawful union security arrangements, particularly the closed shop. Most cases of union-induced job discrimination arise in industries such as construction and transportation, where the union has some control over the hiring process. In these industries, by mutual agreement, the unions perform many of the firm's personnel functions. Despite the fact that closed shop agreements are unlawful, in these industries covert illicit understandings are endemic.

The collusion between labor and management has made the Board's record spotty in this area. In the absence of a specific charge, the Board has no authority to initiate an investigation. When individual employees do invoke the Board's machinery, the proof of a violation results in job reinstatement and back pay. But undoubtedly the hiring pattern of the industry resists full enforcement.

Recently, the Board attempted to meet this problem by devising a new remedy to deal with a union which has repeatedly used its hiring hall as a method of discrimination. The remedy called for Board supervision of hiring hall practices. However, the courts rejected the Board's approach. Unless such remedies can be successfully applied, the end of this kind of unfair labor practice does not appear to be in sight.

INTERNAL UNION AFFAIRS

The Taft-Hartley Act's ban on the closed shop and its restrictions on other forms of union security have had incalculable influence on internal union affairs. This becomes clear if we examine the usual definition of union security. It is commonly held that the strongest form of lawful union security possible today is one where employees are required as a condition of employment to join a union within 30 days of employment or the execution of a contract. According to the Taft-Hartley Act, the payment of non-discriminating initiation fees and dues is the only legal qualification for all union membership.

However, under Board rules, an employee covered by a valid union shop clause cannot lose his job for any union-induced reason except failure to pay dues. This means an employee can violently and articulately attack union policies and leadership, organize an antiunion movement and do anything against the union that he pleases and, provided his dues are paid, his job rights are protected. Of course, he can be fined or expelled from the union for these activities but neither the failure to pay the fine nor the expulsion can affect the job. Thus, in effect, the union shop today is a variant of the agency shop.

The effect of this on union discipline is apparent. Prior to the Taft-Hartley Act, when a union obtained security, the loss of union membership for any reason meant the loss of a job. The advantages of retaining membership and the resulting power and authority of union officers under such circumstances offers a direct contrast to the situation today, except in industries where unions have hiring controls.

The Taft-Hartley Act together with the Landrum-Griffin amendments have outlawed a wide range of union weapons ranging from secondary boycotts and strikes, jurisdictional strikes, recognitional picketing and the enforcement of "hot cargo" clauses.

The most important of these provisions

concern union secondary activities. Congress did more than broadly define, and make unlawful, these secondary weapons: special enforcement procedures were devised to handle them. A secondary illegal activity not only sets in motion the standard administrative process but a companion remedy in the law. If preliminary investigation discloses reasonable grounds for believing that a violation has occurred, the General Counsel is required to go into court and secure an immediate injunction. The trial judge must be convinced that there are grounds for believing a violation has taken place; evidence is presented to him by all the parties. However, the Board's request for injunctive relief is rarely denied. For all practical purposes, the issuance of an injunction decides the matter and the standard route of hearing and appeal to the Board and courts is usually abandoned. It is usually pursued only to clarify the law or to vindicate a legal position.

The importance of the outlawing of union secondary activities goes beyond the fact that its enforcement has been exceptionally swift and effective. It must be remembered that the reason for enacting the ban was the existence of a long-standing antipathy to secondary action which historically took the form of prosecution under the Sherman Anti-Trust Act. In 1940, the Supreme Court interpreted the antitrust laws to give trade unions immunity from prosecution under certain circumstances. But since the point of applying the antitrust laws to unions was to forbid secondary action, the enactment of the Taft-Hartley Act in effect constituted a reversion to past practices.

To say that unions today are immune to the antitrust laws is correct to such a limited extent as to be meaningless. Not only are the union activities which gave rise to practically all antitrust prosecutions now unlawful but more illegal secondary acts are corrected by the Board every month than were tried under the first 40 years of the Sherman Act.

SUMMING UP

The Board's performance cannot be measured simply by an evaluation of its caseload, which in the past year exceeded 27,000 cases. To be sure, the handling and disposition of this number of cases is a remarkable administrative feat for an agency of its size. After all, our national labor policy is administered and enforced with a staff one-third of that required to administer the national mining laws and barely twice as many federal employees as are needed to service one museum, the Smithsonian Institute.

But the historic significance of the N.L.R.B. lies elsewhere. The legal promotion of collective bargaining has permitted the growth to considerable power of a limited purpose labor movement whose commitment to the social order is unparalleled among industrial nations. While ideologues of the radical left may scoff and carp, the American people have been the better for it. On all major domestic and foreign issues, the trade unions in the United States, far from being a divisive element, have been a force for social and national unity.

There was nothing inevitable about this role, no historic necessity which predetermined the outcome. In the past, American unions and employers have engaged in more violent and bloody episodes than have occurred in any other nation's history. The Civil Rights movement of the 1960's has given evidence of what can happen when forces are set loose by a too-long denial of certain basic human needs. In promoting the peaceful settlement of industrial disputes, and in the establishment of standards of industrial legitimacy in accord with our national temper, the National Labor Relations Board has served the nation well.

(*Continued on page 112*)

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As this economist sees it, "The 'right-to-work' debate has been primarily a socio-political struggle, since the issues at the heart of the controversy often revolve around the acceptability of unions, their role in society, and, equally important, the political power they maintain."

State "Right-to-Work" Laws

By Milton J. Nadworny
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For two decades, debates over the subject of "right-to-work" legislation have attracted a great deal of attention, and have generated much heat throughout virtually every part of the United States. These debates, however wide-ranging their settings, have been staged on a state-by-state basis. The reason for this is that "right-to-work" laws have been, and continue to be, state-determined pieces of legislation. The jurisdiction of each "right-to-work" law extends to the borders of the particular state in which such a law is in effect. (There is no federal "right-to-work" law, and there is little likelihood that Congress would enact such legislation in the foreseeable future.)

At the present time, 19 states have "right-to-work" laws in force. Louisiana is usually excluded from this count, for its law covers only agricultural and certain processing workers. Twelve of these laws date back to 1947 or earlier. However, in 1958, the "right-to-work" issue assumed a larger national prominence. In that year, "right-to-work" referendums were submitted to voters in California, Colorado, Idaho, Kansas, Ohio and Washington. The legislation was rejected in every state but Kansas. Since that date, interest in the issue has been maintained through the adoption of anti-"right-to-work" planks in the national Democratic platform; the nomination of Barry M. Goldwater, an avowed supporter of such legislation and author of a federal "right-to-work" law; and the request by President Johnson in January, 1965, and repeated in his message of May 18 (see page 106 of this issue), that Congress repeal Section 14(b) of the Taft-Hartley Act.

The connection between Section 14(b) and state "right-to-work" laws is a vital one. States may, of course, enact labor legislation governing employees in intrastate commerce, but the number of such employees is comparatively small and unimportant. Section 14(b) permits state "right-to-work" laws to cover employees engaged in interstate commerce as well—employees who are generally otherwise exempt from state labor relations laws. As a result, the viability and vitality of state "right-to-work" laws hinges upon the retention of Section 14(b).

"Right-to-work" laws deal directly with the issue of union security and indirectly with the issue of unionism. They make illegal any requirement that a worker join a union as a condition of obtaining or retaining his job. The most common union security arrangements are the closed shop, the union shop, and maintenance-of-membership.

The highest order of union security is the closed shop, which requires that an employee be a member of a union as one of the qualifications necessary to being considered for hiring. He must, of course, also retain membership while he is employed. Since 1947, when the Taft-Hartley Act made the closed

shop illegal, the closed shop has dwindled in importance, even though it is still commonly used in a few industries, particularly construction.

The union shop places no obligation on an applicant for a job that he be a union member in order to be hired. Rather, it requires that he join the union after he is hired, usually after 30 days have passed. Here, too, he must retain his membership in the union during employment. The union shop is today the most frequent form of union security, and appears in some form in a majority of labor agreements in the United States. According to Section 14(b) of the Taft-Hartley Act, union shops may be banned by state "right-to-work" legislation.

A third form of union security, maintenance-of-membership, requires that those who are already in the union, or who join the union, must remain in good standing in the union during the life of the labor agreement. There is no requirement to join, but only a requirement to continue membership once an employee has joined.

TRADITIONAL ARRANGEMENTS MODIFIED

Since the 1950's, some modifications of these traditional union security arrangements have been introduced, partly as a response to the challenge of "right to work" laws. One is the "modified" union shop, under which certain key employees may be exempted from the requirement to join the union, or under which employees may withdraw from the union during a specified period.

Another modification is the agency shop, which does not require that an employee assume membership in the union, but instead requires that he pay the uniform dues and initiation fees of the union. These are often referred to as "service fees," paid to the union for its service in representing and negotiating for the employees.

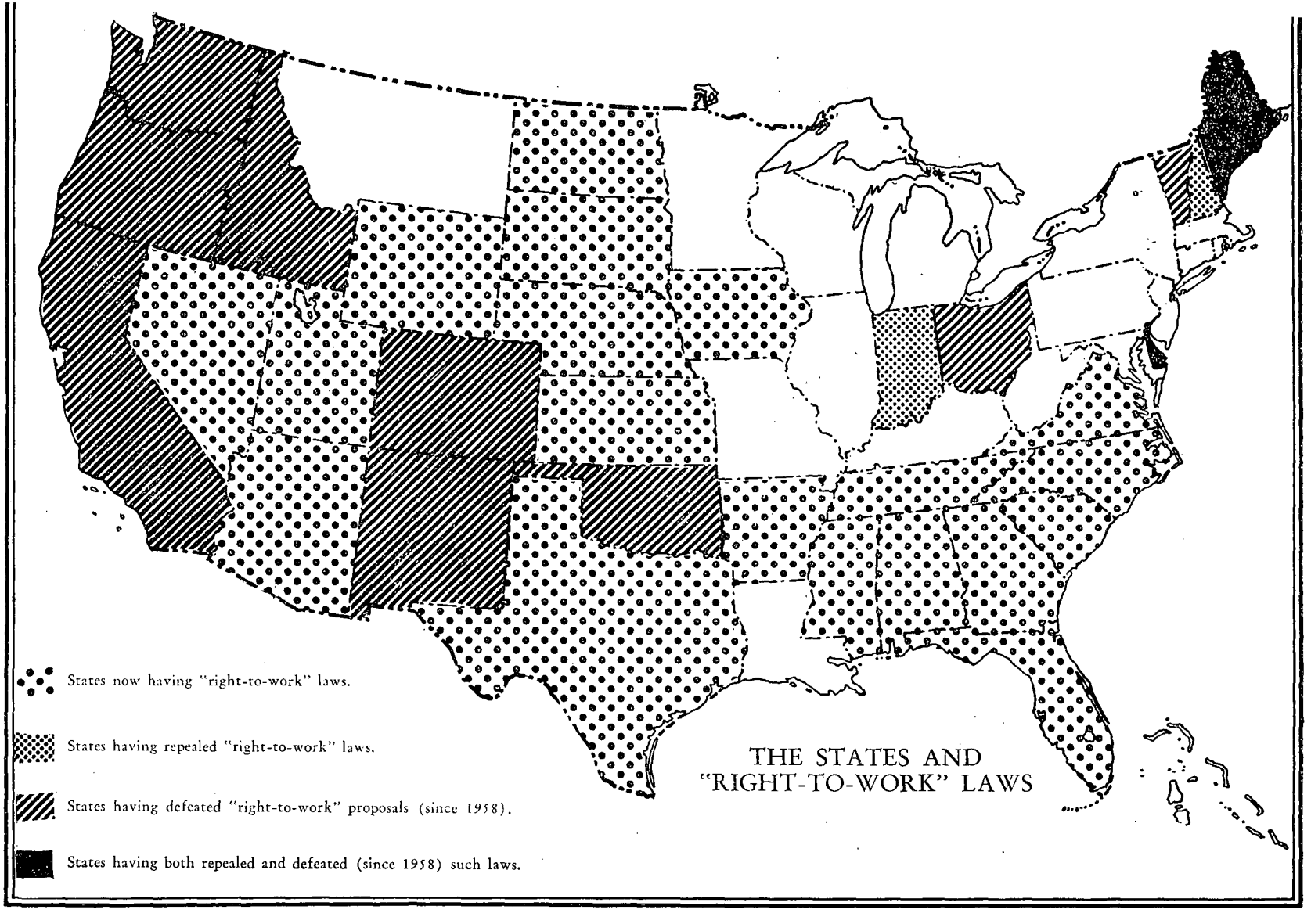
There are, to be sure, other forms of union security, such as the checkoff, but "right-to-work" laws are designed to deal specifically with the types of union security mentioned above.

With the exception of the closed shop, federal law and the laws of the majority of states permit the establishment of other forms of union security. Union security provisions are included in labor contracts only after agreement between companies and unions. When they are included in a labor agreement, they become part of the rules under which both the employer and the employees operate. Therefore, a violation of the union security clause by an employee means that he may be subject to discharge or other penalty. In this manner, the membership strength of the labor organization is maintained, and the employer obligates himself to maintain such security.

Although Florida and Arkansas adopted constitutional amendments incorporating the "right-to-work" principle in 1944, it was not until 1947, when the Taft-Hartley Act gave it impetus, that "right-to-work" legislation gained much ground. To be sure, the upsurge in union strength and power during the 1930's and during World War II was a contributing factor. In addition, accelerated strike activity in the years immediately following the war's end caused alarm and a growing hostility toward unions. It is small wonder that most of the states that adopted such laws did so by 1947. The controversy over this issue has raged ever since, and recently with increasing intensity.

The present struggle over "right-to-work" is neither new nor unique in labor-management history. It has a kinship with the "open shop" drives which existed earlier in this century, for both have aimed at limiting or reducing the power of organized labor. However, the "open shop" movement took place when unions were smaller and weaker, and when there was no legal protection for unionization. The "right-to-work" program was developed in an environment in which unions were numerous and populous, and when their fundamental activities were protected by law. "Right-to-work" legislation aims in large part at removing a condition which is in existence and widespread; "open shop" activities were largely preventive.

The arguments surrounding "right-to-work" are many and varied, and often change and shift. Generally speaking, the proponents



insist that compulsory unionization violates individual rights, that funds must be paid to unions (and "union bosses") which are usually power-hungry and frequently corrupt, and, on occasion, that economic benefits in the form of attracting industry result from the adoption of "right-to-work" laws.

Opponents of "right-to-work" laws point out that since unions account for a majority of employees in each bargaining unit, and must represent all employees, such legislation strengthens the "free riders" and the trouble-makers. Furthermore, "right-to-work" laws interfere with free collective bargaining, since they prevent employers from accepting union security. Finally, "right-to-work" legislation, it is argued, is designed to "bust unions" and keep wages down.

The debates which have taken place over "right-to-work" laws have generally stressed the points and arguments most fitting to the particular locality in which the issue arises. The issue has arisen in a number and variety of states and areas during the past 20 years, and there has, indeed, been both ebb and flow in the disposition of such legislation.

From 1944 through 1947, 15 states enacted "right-to-work" statutes, or adopted state constitutional amendments, or, in some cases, did both. These states were Arizona, Arkansas, Delaware, Florida, Georgia, Iowa, Maine, Nebraska, New Hampshire, North Carolina, North Dakota, South Dakota, Tennessee, Texas, and Virginia. During the next three years, the tide seemed to turn; Delaware, Maine and New Hampshire repealed their laws, while "right-to-work" referendums were defeated in Massachusetts and New Mexico. Between 1951 and the end of 1957, Alabama, Indiana, Mississippi, Nevada, South Carolina, and Utah also adopted such laws. Louisiana, which had approved a standard "right-to-work" law in 1954, repealed it and replaced it with an act which covered only agricultural and agricultural processing workers. The voters of the state of Washington rejected the law during this same period. Thus, by the end of 1957, a net total of 18 states were "right-to-work" states.

The pace dramatically accelerated in 1958. In that year, the issue was placed on the ballot in California, Colorado, Idaho, Kansas, Ohio and Washington. "Right-to-work" bills were introduced into the legislatures of Kentucky, Louisiana, Maryland and Rhode Island. An initiative petition in Montana failed to receive the necessary number of signatures. Despite this activity, only Kansas adopted a "right-to-work" program. (Every Kansas legislature since 1947 had debated such legislation, and only one passed it—in 1955—just to have it vetoed by the governor.)

Since 1958, "right-to-work" activity has been maintained at a high pitch, but has met with relatively small success. Wyoming did pass the law in 1963, but legislatures in California, Connecticut, Delaware, Idaho, Maine, New Mexico, Oklahoma, Oregon, Vermont, and Washington have been faced with, and have rejected, the idea at almost every legislative session since 1959. In a dramatic election, Oklahoma voters defeated a "right-to-work" referendum proposal in 1964. Even more significant is the fact that Indiana repealed its "right-to-work" law in January, 1965, and a bill to repeal the law in Wyoming passed the House, but failed in the Senate by one vote. At present, the "right-to-work" movement appears to be at a low point of influence. Should the Johnson administration be successful in obtaining the repeal of Section 14(b), the "right-to-work" forces would be dealt a blow from which recovery would be difficult. Short of this, widespread efforts to obtain such legislation in the states will continue.

There are other considerations that must be incorporated into the fabric of the "right-to-work" controversy. Is there any clear-cut connection between "right-to-work" laws and industrial development, union growth and activity, or collective bargaining relationships? Unfortunately, no sizable clear test can be made, because "right-to-work" legislation is not easily isolated as a single causative factor in economic or industrial relations developments. There are some indicators and some patterns, however, which can be brought to bear on these questions.

First of all, "right-to-work" states repre-

sent some degree of diversity. Ten of the states are southern states, another five are in the Midwest, and the rest are Mountain or southwestern states. It is also true that Texas is probably as different from Mississippi as Iowa is from Arizona. Nevertheless, pro-"right-to-work" arguments frequently stress the attractiveness of such laws to industrial migration, and this is subject to some scrutiny.

The most dramatic *rate* of increase in industrialization has taken place in the South, but this is due largely to the fact that these states started from a rather low base. Many manufacturing firms have moved into the South, but they have also moved elsewhere. In individual cases, firms may move into states largely because of the existence of a "right-to-work" law, but no study of the subject, such as one undertaken in Indiana some years ago, has indicated that "right-to-work" is a major factor in the location decisions of even a majority of firms. Indeed, Kansas and Indiana represent two cases where manufacturing plants moved out, even though "right-to-work" laws were in effect at the time.

Location decisions are based upon an amalgam of factors which, in turn, depend upon the nature of the business. Land, power and building costs; tax concessions; the quantity, quality, and wage rates of labor; nearness to markets or raw materials; and a number of other factors will, in some combination, influence the decision to relocate or add a plant. In the southern states, for example, most gains in manufacturing employment have historically been greatest in low-wage industries, where the demand for labor has focused on the semiskilled and unskilled low-wage worker. A few years ago, the Southern Governors' Conference reported that these states had relied on industries in which "wages are on the bottom of the list," and had not been "selective" in their attraction of industry.

It is not likely, nor demonstrable, that "right-to-work" laws have had any significant effect on the ability of states to attract the stronger, high-wage industries which utilize large proportions of professional, technical, and skilled personnel. But the Southern Governors' Conference statement does have a more direct bearing upon the relationship of "right-to-work" and union strength than it does on the connection between such legislation and industrial development. This is, to be sure, in conformity with the intent of these laws.

There is no data of recent vintage on the general status of unions and union membership in "right-to-work" states. Unfortunately, any information which would indicate whether membership has risen or fallen would not necessarily isolate the influence of "right-to-work" laws. If membership has risen, it could be due to a total increase in the number of jobs available, not only in private manufacturing, construction, or other industry, but also in the number of jobs under contract to the federal government. Decreases in total membership might conceivably be due to the impact of "right-to-work," but might be caused, as well, by loss of jobs under general economic conditions, automation or similar developments. Much of the effect of "right-to-work" legislation depends upon the implementation by the state governments and courts and, more meaningfully, upon the practical application and implementation on the plant level. The kind of industry which exists in these states, and the attitude of these managements toward unions, have the strongest influence upon the life or stability of the collective bargaining relationship.

In Mississippi, for example, a union official pointed out that in industries like paper and rubber, the unions have been able to maintain a membership of "almost 100%." On the other hand, garment and woodworking unions, organizations which were traditionally weak and on the defensive, have lost strength and membership in that state. If there has been any direct debilitating impact of "right-to-work" on total union membership, it is likely that it has taken place in some Deep South states; in others, any change in membership is so entangled in multiple causes that it probably is unlikely that any cause-and-effect relationship can be isolated.

The effect of "right-to-work" laws may not clearly bear directly upon retained membership, but may affect potential union member-

ship. Under the pressure of "right-to-work" laws, the critical nature of internal organizational work may prevent organizers from being able to find the time or funds to extend their recruiting to other companies. More directly connected with such legislation is the internal performance of the local unions themselves, although the information on this subject is indicative rather than definitive.

In a study of "right-to-work" laws in Texas published in 1959, Professor Frederic Meyers noted the following:

> In the case of grievances, the law *has* had a demonstrable effect. It has made the unions not more responsible but more responsive to the demands of a tiny vocal minority of the membership. It has consequently caused issues to be pressed through the grievance machinery which, under conditions of union security, would not and should not have been taken up. The union leader without security is often most responsive not to the majority of loyal union members who will remain, but to the small minority, often irresponsible, whose continued membership is doubtful.[1]

More recently, a survey in Texas revealed that 19 per cent of the locals in the state reported that from 10 to 50 per cent of the grievances which they had filed were for the purpose of "signing up non-members." In other words, locals may take a more militant, even inflexible, stand against management than would be the case if they had union security arrangements, in order to retain, gain, or unduly pacify members.

Such increased militancy on the part of unions may, in turn, explain the fact that in N.L.R.B. representation elections, unions have somewhat surprisingly held their own. A sampling of election data published by the N.L.R.B. relative to the states and nation reveals that, in 1953, unions lost 28 per cent of the representation elections in the United States, and lost 31 per cent of the elections in the then "right-to-work" states. In 1963, the percentage of elections in which no union was chosen was 41 per cent in the nation as a whole and 44 per cent in "right-to-work" states. However, elections won by A.F.L.-C.I.O. unions amounted to 64 per cent in the nation and 65 per cent in the "right-to-work" states in 1953, and in 1963, the relative percentages were 41 per cent and 44 per cent. (Decertification election [elections in which a union loses its representation rights] data for the states is, unfortunately, not available; it might add an important dimension to this picture.)

As regards wages and wage rates, it may well be that "right-to-work" laws have some impact. The states which have these laws have not, in general, reached the national average of wage and per capita personal income amounts. Certainly where union wage negotiations are concerned, the potential impact is important. As one union officer put it,

> such legislation has had a direct effect on the type of contracts and wage scales unions have been able to negotiate in many instances, because when you negotiate from a position of strength, you get better contracts.

In 1957, *Fortune* magazine took a survey of "right-to-work" states, and concluded, among other things, that this legislation, with some minor exceptions, had "singularly little effect" on labor relations. Professor Meyers came to a similar conclusion in his study of the Texas law when he noted that it had "a minimal direct effect" on labor relations. It may well be that whatever impact "right-to-work" laws have had has been largely indirect. Meyers called the Texas law more "symbolic" than anything else; perhaps, in many cases, "right-to-work" laws are more clearly symptomatic of the social and economic environment.

(*Continued on page 112*)

[1] Frederic Meyers, *"Right to Work" in Practice* (New York: The Fund for the Republic, 1959), p. 41.

Milton J. Nadworny, a labor arbitrator, is the director of management training programs for numerous firms. He has conducted a number of studies of the labor force, and has specialized in research about the development of scientific management. Author of *Scientific Management and the Unions* (Cambridge: Harvard University Press, 1955), he is working on a book, "The Development of American Management."

This specialist believes that any congressional limitation on the size of bargaining units would "modify too greatly the viable relationships and balances of power that management and labor have developed in many industries."

Multiemployer Bargaining

By Charles M. Rehmus
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During the 1930's and 1940's, the American trade union movement expanded substantially. The older, established craft unions increased in membership and in economic strength; industrial unions, in which all employees of a given firm were organized into a single union, also emerged in leading basic industries. As organized labor grew in power and prestige, many unions became increasingly interested in developing an ever-broader base for collective bargaining purposes.

Bargaining units, particularly those of some industrial unions, were expanded to cover not simply a single plant of a company but all the plants of a given corporation. In other industries, all employers in a given industry were encompassed within a single bargaining unit; sometimes on a city or area basis and in other situations in bargaining units that covered many states or the whole nation.

This article is concerned with the extent, rationale and future of what is commonly referred to as "multiemployer" collective bargaining. Many commentators use this term more or less interchangeably with "industry-wide" bargaining. Technically, the latter term denotes a single labor agreement negotiated by one union covering wages and conditions of work in an entire industry. The American economy is so large and so complex, however, that very few labor agreements blanket any whole industry. Therefore, multiemployer bargaining, rather than industry-wide bargaining, is a more accurate description of the subject. Whichever term is used, the fundamental issue of public concern is whether trade union negotiations should be confined to a single company or city, or whether collective bargaining contracts should be permitted to include a substantial group of employers spread over a number of states, a region, or the entire nation.

Multiemployer bargaining first became a matter of national concern shortly after World War II. A number of major strikes —in coal, steel, shipping, lumber, autos and electrical equipment—created a public awareness that what seemed to be entire industries were being shut down in periods of industrial unrest. While many of the negotiations that led to these strikes had been conducted on an individual company basis, some parts of the public appeared to feel that labor had gained excessive power which should be curbed by legislative enactment. In 1946, some members of the United States House of Representatives were inclined to include a ban on industry-wide bargaining in what came to be the Taft-Hartley Act. Congressman Fred A. Hartley Jr., in fact, abandoned the effort to include such a provision in the bill only because he felt it could not secure in Congress the votes necessary to override an expected presidential veto.

During the 1950's, the movement toward

increased size of bargaining units continued. In some industries, larger units were certified by the National Labor Relations Board. More commonly, however, employers and unions voluntarily agreed that existing bargaining units would be grouped for negotiating purposes and that common contract termination dates would be established throughout an industry. In other industries, *pro forma* cooperative relationships that had existed for years between groups of employers, different locals of the same national union, or different national unions became regularized. Negotiations for whole industries or segments of industries now take place over the same bargaining table, even though in a technical sense each of the participants signs his own labor agreement at the conclusion of the negotiations.

TENDENCY TO ESCULATION

Where work stoppages occur, the union often strikes all of the participating employers. Even where a union strikes only a few members of a multiemployer association, judicial decisions now permit the nonstruck employers to lockout their employees and even to hire replacements as a countervailing tactic to union pressure. Thus in many bargaining relationships, whether the union strikes all or a few employers, the result is to escalate the size and impact of work stoppages.

As a consequence of these developments, bills have been introduced periodically in Congress which would prohibit industry-wide bargaining and in other ways limit the size of bargaining units. As recently as the fall of 1964, the General Subcommittee on Labor of the House of Representatives held hearings on the impact of multiemployer association bargaining on the collective bargaining process. The committee's conclusion will be noted later.

Today's trade union leaders are generally unified in support of the proposition that they should be allowed to bargain on a regional or industry-wide basis. Moreover, a substantial body of employers support this position. Many employer groups have had a long and satisfactory experience with multiemployer bargaining and would bitterly resent its abolition by legislative enactment. Nonetheless, there are many employers who still want to bargain on a company-by-company or even plant-by-plant basis, although they support collective bargaining.

Most of those who oppose industry-wide bargaining do so because of its alleged dangers to the public interest, not because of its impact upon employers. They support limitation on the size of bargaining units because they doubt that a strong trade union movement is compatible with the successful operation of a free competitive economy or because they doubt that our integrated economy can withstand the impact of massive work stoppages.

Proposals for constructive alternatives to multiemployer bargaining are numerous. A reasonably typical example is the bill proposed by Representative Patrick Martin (R., Nebraska) in 1963.[1] This bill, using the antitrust approach to limit the size of bargaining units and potential work stoppages, would limit collective bargaining to a single employer and the representatives of his own employees. An exception would be made for a multiemployer group bargaining within a single metropolitan area, providing that the employees within the area did not constitute more than 25 per cent of the total number of employees in the whole industry. In addition, all concerted bargaining efforts by employers or unions would be made illegal.

EXTENT OF BARGAINING

By the early 1960's, more than four million workers in the United States were covered by collective bargaining agreements negotiated between trade unions and formal associations or groups of employers. Approximately one unionized American worker in four is covered by this type of agreement. Agreements covering all the employers in an industry within a geographic region are considerably more numerous than are true industry-wide agreements. Even more numerous are the in-

[1] H.R. 333, 88th Cong., 1st Sess. A similar bill was introduced in the Senate by Senators Carl Curtis (R., Nebraska) and Karl Mundt (R., South Dakota).

stances in which groups of employers negotiate on a city-wide or metropolitan area basis.

It is also noteworthy that collective bargaining in our largest mass production industries, with the exception of steel, tends to be on a single-company basis, even though informal cooperative arrangements of one kind or another may exist among employers in the larger firms. In these major industries, a trend has developed to standardize conditions through corporation-wide collective bargaining, in which all the plants of a given large corporation, regardless of geographic location, come within the scope of a single agreement. Agreements of this type, such as that between General Motors and the United Automobile Workers, or General Electric and the International Union of Electrical Workers, cover many times the number of workers that are involved in most industry-wide agreements. Notwithstanding the great number of workers affected, corporation-wide bargaining differs substantially from multiemployer and industry-wide bargaining, which is the subject of this article.

Bargaining of a single contract for an entire industry exists in relatively few situations. It is found primarily in coalmining, elevator installation and repair, installation of automatic sprinklers, pottery and related products, and the wallpaper industry. In addition, joint bargaining by the major employers takes place in two of our largest industries, steel and railroads. In these two industries, the companies jointly determine with a particular union the size of the economic package, although each individual employer still signs a separate and somewhat varying labor agreement.

As indicated earlier, multiemployer bargaining is considerably more common within specific geographic or regional areas. Examples of this occur in food canning, longshoring, intercity trucking, shipping, and the paper and pulp industry.

Most common is bargaining by employer associations on a city or metropolitan area basis. In over 25 industries collective bargaining is characteristically carried on in this way. Among the prominent industries of which this is true are local trucking, newspaper publishing, much of food retailing including dairies and bakeries, and the men's and women's clothing industry.

The preceding paragraphs have summarized the various kinds of multiemployer bargaining arrangements as they exist in this nation. In addition, it should be noted that such groups can be organized in different ways for negotiating purposes.

In many fairly large industries all the employers who have labor contracts with locals of the same international union join to bargain with a single union committee representing all the locals involved. This type of arrangement occurs in basic steel, hard and soft coal, and among longshore employers within given coastal areas.

Groups of employers in an industry can also join to bargain simultaneously with a committee composed of representatives of different unions. For example, the railroad carriers have negotiated simultaneously with five unions of railroad operating employees, or as many as eleven different unions representing various nonoperating crafts. Similarly, shipping employer associations often negotiate simultaneously with several unions of licensed or unlicensed seafarers.

Finally, multiemployer groups are often formed to negotiate with a single local union representing employees at each of the firms. This is becoming increasingly common within metropolitan areas, particularly where many small employers face a single powerful union. Examples of this occur in local cartage agreements with the Teamsters, when retailers negotiate with a city-wide local of Retail Clerks, or when small dress manufacturers in one area join to bargain with the International Ladies' Garment Workers. Employer associations of this latter kind have often been deliberately fostered and encouraged by the unions involved.

Employer bargaining groups vary widely as to type, structure, procedure and scope of activity. Some substantial employer groups have established formal membership associations, frequently incorporated as nonprofit organizations under state law. Others simply

act through joint bargaining committees, without incorporation. Still others employ a single negotiator and authorize him by power of attorney to conduct their bargaining. Whatever the arrangement, multiemployer bargaining is essentially consensual, having its roots in the parties' voluntary acceptance of this method of bargaining.

ADVANTAGES

Proponents of multiemployer bargaining generally list at least a half-dozen reasons for favoring this type of arrangement in dealing with unions. Some of the arguments are made by employers, some by union representatives, and some are put forward by both. The following paragraphs summarize these arguments without attempting to ascribe them to either of the parties to the bargaining relationship. In addition, no attempt is made to evaluate their validity.

Convenience and Expertise. In industries in which the typical employer tends to be small, relative to his union counterpart, bringing together a large number of employers greatly facilitates the bargaining process. Both labor and management agree that it would be an almost impossible task to have each employer conduct separate negotiations. Neither unions nor management have adequate skilled manpower for such a process. Moreover, the individual small employer, by joining with others, is able to hire professional and expert labor relations counsel which he might otherwise be unable to afford. Each firm thus gains and accepts the leadership of persons more professionally equipped to deal with the complex issues posed by contemporary labor relations.

Removal of Labor Cost Competition. It is obvious that if all employers in an industry bargain jointly they will all end up with roughly identical labor costs, thereby eliminating the possibility that any single employer will gain a competitive advantage through a lower wage rate. Moreover, employers in industries such as building contracting can bid on work outside their immediate home area, confident that their labor costs will be the same as all contractors bidding on the job. Unions, of course, have always favored the removal of wage rates from competition and multiemployer bargaining precludes the possibility of wage cuts by single employer and makes it less likely that one employer will set a low prevailing wage standard in an area.

Under multiemployer bargaining, differences in the employment conditions in individual firms are ironed out, and differences in working conditions among firms are subjected to more definite tests. Wage structures and other terms of employment are consolidated and interfirm differentials are permitted only where they have a rational basis.

Stability. The standardization of working conditions and wages in an industry results in a more stable relationship between labor and management. In a number of instances, employer acceptance of unionism is not really achieved until employers close ranks to deal with their employees' representatives. In doing so, they acknowledge the union's status as the workers' spokesman and recognize a permanent bargaining relationship. Until this happens, the union-employer relationship in industries comprised of many small, intensively competitive firms can hardly be stabilized. At the same time, the union becomes more secure and responsible in its bargaining relationship, confident that it is unlikely to be unseated by a rival union group.

Contract Administration. By creating a uniform contract, the multiemployer organization is usually able to rely upon the union to see that no single employer gains an advantage by failing to adhere to its terms. Professional management representatives are also available to insure orderly and uniform contract interpretation and to prevent many kinds of discriminatory personnel administration. Grievance resolution becomes standardized among employers, and grievances are frequently resolved by some sort of employer-union conference structure which lessens recourse either to arbitration or strikes.

Fringe Benefits. Multiemployer bargaining has enabled many parties to create certain benefits for employees which would be economically impossible for a small individual employer. Included in this area are such em-

ployee benefits as pension and welfare funds, medical benefits, dental clinics, and supplemental unemployment benefits. Both the union and the companies benefit. Managements can afford to guarantee more for employees because costs are spread across a larger group and can be distributed on an actuarial basis. Additionally, where substantial numbers of people and dollars are involved, the larger fringe benefit plans can afford to pay for expert administration.

Apprenticeship and Training. In some industries, particularly those hiring skilled craftsmen, training is fundamental to the life of both the unions and the companies. By use of a multiemployer association, industry-wide training programs within a particular geographical area can be established at reasonable cost to each employer.

Countervailing Power. A substantial number of multiemployer associations have been formed just to be able to meet with equal strength the power possessed by labor. In industries comprised of a large number of individual employers engaged in intense competition, where labor costs represent a high percentage of total costs, a strong union can play one employer against the other (the so-called "whip-saw") to the detriment of all. A multiemployer association can hire professional negotiators, can develop employer strike insurance funds for purposes similar to union strike benefit funds, and can match selective strikes with countervailing lockouts. In many industries it is felt that association bargaining is the only way to avoid the economic chaos and constant labor strife attendant upon a multiplicity of contracts within a local industry.

Fewer Strikes. Multiemployer bargaining tends to reduce the total number of strikes that occur in a given industry, both because of increased professionalization of bargaining relationships and because both parties fear the increasingly serious losses that will be entailed if all employees or all companies in an industry or area stop work. Moreover, major strikes increase the likelihood of government intervention, a possibility that neither labor nor management seeks.

DISADVANTAGES

The disadvantages of multiemployer bargaining, as seen by some employers and those who are concerned about its impact upon the public, are summarized in the paragraphs that follow. Again, no attempt will be made to evaluate the validity of these arguments.

Remoteness of Bargaining. In multiemployer bargaining, the negotiations are apt to be conducted by high-level professionals, relatively unfamiliar with day-to-day problems in the plants. Negotiators cannot be thoroughly familiar with conditions and circumstances involving any one employer or group of employees; instead, they must bargain from a general knowledge of average conditions. Local interests are often necessarily subordinated to the dictates of national union policy or the needs and desires of a majority of the employers.

Moreover, where collective bargaining agreements are not negotiated at the plant level they may not be understood by the people who will have to live with them. There may be lessened inducement to try to make the contract work, and this may generate additional internal-plant strife.

Loss of Democracy. In the long-run, multiemployer or industry-wide bargaining concentrates more and more power and authority in the hands of union leaders and eliminates real membership autonomy at the local level. Decisions about working conditions, strikes and other fundamental matters tend to be removed from the people most directly concerned, to the derogation of democracy within unions.

Monopoly Power. Under conditions of industry-wide bargaining, the needs of small or weak firms may be sacrificed to the need of a majority to obtain a labor agreement. The industry becomes concentrated into fewer, larger concerns. If this occurs, the remaining companies tend to have an increasing amount of monopoly power, leading to higher prices and exploitation of consumers. Thus, the increasing size of bargaining units results in a tendency toward higher prices and is a direct cause of cost-push inflation.

Wage Anomalies. Under certain circumstances, industry-wide or regional bargaining can create strange distortions in the wage structures and average wage rates of local communities. Where wages are bargained on a national basis, there is a tendency for all wages for comparable work in the industry to move toward the highest rates paid anywhere. Some regions of the country may find certain select employees receiving wages far beyond those of other employees with similar skills in that region. Moreover, the pattern effects of large wage increases lead unions in other industries to demand similar increases regardless of competitive conditions or the ability of marginal local industries to pay them. Finally, in the event of a depression, the downward inflexibility of wage rates in local areas can result in plant shutdowns with consequent increase of unemployment.

Strike Escalation. Multiemployer bargaining, particularly where its scope is regional or industry-wide in nature, increases the hazard of strikes and seriously endangers the entire economy. While multiemployer bargaining may tend to reduce the total number of strikes, when strikes do occur they will inevitably be larger in scope, with a consequently increased adverse impact upon the community. Industries in which a strike against one employer might not be serious, except to the local community involved, now become affected with a public interest. Nationwide shutdowns in industries such as steel, coal, railroading and shipping become possible and a serious threat to the public interest.

WHAT OF THE FUTURE?

Analysis of the arguments favoring multiemployer bargaining shows that they are most appropriate in industries in which the individual firms are small. In such industries, unity among employers becomes an integral part of efforts by unions and some of the larger firms to prevent undercutting of employment standards. In these industries, it can reasonably be said that employers organize as much against other employers as against unions, but the system appears to operate to the mutual satisfaction of almost all concerned. Continued expansion of multiemployer bargaining in industries in the same city or metropolitan area can therefore be expected.

The arguments favoring joint bargaining have less force in our major heavy industries. Here the individual firm typically commands far more resources to cope with unions on an independent basis. Labor costs are usually a smaller percentage of total costs. Each company can afford the professional labor relations staff it needs. A large company is much more likely to be capable of continuing limited operations or drawing on accumulated inventories in the event of a strike.

In many of our large industries in which the product market is shared by a few major firms, each company is keenly aware from experience that the most costly settlement reached by any one firm will probably have to be met by the others. Thus firms often seek a kind of loose understanding as to the size of their economic offer. These relationships are typically informal, however, each company retaining much scope for independent action. In industries like these, where intercompany dealings are approached cautiously for fear of running afoul of antitrust laws, closer relationships would be apt to create substantial difficulties for little real gain. At this time, therefore, it does not appear likely that the leading firms in our major industries that now bargain separately will move closer to industry-wide bargaining.

In those major industries where a few employers predominate and in which industry-wide or region-wide bargaining now takes place, special circumstances are ordinarily

(*Continued on page 112*)

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Although there has been considerable traditional antipathy toward compulsory arbitration these two economic specialists find that "To many observers . . . compulsory arbitration presents a better method of settling vital disputes than seizures and injunctive procedures." And, they continue, "Unless more acceptable ways are found to protect the public interests in labor disputes . . . compulsory arbitration is likely to play an increasingly important role in American industrial relations."

Compulsory Arbitration: A Broad View

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Both collective bargaining and arbitration are institutional arrangements that impose sanctions—different anctions—designed to resolve labor-manageent conflict. Under collective bargaining, he parties in conflict are left to their own reources to solve their disagreements. Under rbitration, labor disputes are settled by the ecisions of outsiders acting either alone or s members of arbitration boards. This efinition of arbitration includes both comulsory and voluntary arbitration. However, under compulsory arbitration, the parties re *required* by law to submit the dispute to rbitration; under voluntary arbitration, the arties act on their own volition. In both oluntary and compulsory arbitration, the wards are binding.

It can be argued that compulsory arbitraon is a supplement to, a complement to, or substitute for, collective bargaining. If the resent arrangements, based on collective argaining, are thought to be adequate, comlsory arbitration may be viewed simply as *supplement*. If the present arrangements e thought to be inadequate, it can be gued that compulsory arbitration is a cessary *complement* to collective bargaing. The two together might do an acceptae job. Or it might be argued that collece bargaining and compulsory arbitration are *alternatives* in the sense that they are incompatible. For example, the position is sometimes taken that the introduction of compulsory arbitration would lead to the atrophy and consequent elimination of collective bargaining.

Opponents of compulsory arbitration contend that collective bargaining and compulsory arbitration are incompatible; that collective bargaining needs no complement; and that, if a supplement is needed, other improvements are more desirable than compulsory arbitration. Proponents of compulsory arbitration argue that it is no substitute for collective bargaining; that collective bargaining requires a complement such as compulsory arbitration for an adequate performance; and that, even if collective bargaining is thought to be functioning adequately, results can be improved with compulsory arbitration as a supplement.

Collective bargaining, which has been national policy since the passage of the Wagner Act in 1935, has two major troublesome aspects. First, the bargained results may increase costs to management and this in turn may prove inflationary. In this sequence of cost-push inflation, unions share responsibility with management and government. The union initiates the action, but management agrees to the increase and a compliant gov-

ernment generates the money supply necessary to finance it. In fact, some economists suggest that we cannot have free collective bargaining, full employment, and stable prices. It is frequently suggested that these three goals constitute an incompatible triad. There is a pay-off among the three; to get any two we must partially sacrifice the third.

Second, collective bargaining involves work stoppages to effect agreement. At times, the cost of such stoppages to the public can be great—too great to be ignored by government.

Compulsory arbitration has been suggested as a means to reduce the consequences of these two troublesome aspects of collective bargaining. Most of the arguments for and against compulsory arbitration revolve around two major issues: the issue of standards by which to resolve labor-management disputes and the issue of sanctions to enforce *compliance* with the arbitration award.

THE ISSUE OF STANDARDS

Labor-management disputes can arise either over or under the contract. Under-the-contract disputes involve the interpretation of an *existing* contract; they are also frequently called grievance disputes. Over-the-contract disputes arise out of attempts to negotiate a *new* contract. This discussion will be limited to the latter; this is the more difficult issue as far as the development of standards is concerned.

The standards employed in wage negotiations under collective bargaining are ostensibly market standards. The function of bargaining is to narrow the range between the highest offer of management (which is the low offer in the range) and the lowest offer acceptable to labor (which defines the high end of the range) until the two parties reach agreement. Conditions of supply and demand in both product and labor markets as well as the relative economic power of labor and management determine the characteristics of this range.

In the last analysis, the sanction which is imposed to compel the parties to continue bargaining until the range narrows down to agreement is the strike. The strike imposes economic loss on both parties. The ability of each party to hold out, and hence achieve an agreement more favorable to it, depends upon its capacity to absorb economic loss. Hence, in the last analysis, bargaining power depends upon the willingness and the ability of each party to withstand economic attrition. Power may have to be demonstrated occasionally to convince the opposition of its existence. The use of this sanction is at expense not only to labor and management but also to the public. This is one of the troublesome aspects of collective bargaining.

The major difficulty in establishing standards to be used under compulsory arbitration would appear to be the ability of the duly constituted labor court or commission to develop these objectively. It can be assumed that the tradition of adversarial proceedings would be preserved. The labor court would hear arguments from labor and management in support of their relative ends of the bargaining range. The labor court would presumably make its decision within the range defined and narrowed by collective bargaining. (There need be no such restriction, however, on the court's authority. Compulsory arbitration would therefore take over after collective bargaining had exhausted its utility and had left the field to the contest of power. Viewed in this manner, compulsory arbitration would not reduce bargaining power to zero so long as collective bargaining defined the range.

Furthermore, it can be argued that the final resolution of the conflict by compulsory arbitration would be more rational or equitable than that reached by the strike. However, this argument requires acceptance of the proposition that the deliberations of the labor court, in response to the conflict between the parties, would be more likely to reach a rational resolution than would contest between the power of the two parties to withstand economic attrition.

OPPOSING COMPULSORY ARBITRATION

Opponents of compulsory arbitration argue that no objective standards exist by which a labor court could resolve a wage dispute

This is true in the sense that the standards employed by a labor court would probably not emerge fully developed as drafted legislation. They would more than likely develop in a manner consistent with the tradition of Anglo-American common law; the standards and guiding principles would take form and acquire greater precision as the number of adjudicated cases increased. Such was the experience of the National War Labor Board during World War II. It should also be noted that today the federal courts are required to make economic decisions in treble damage actions under the antitrust laws. These decisions are rendered without special expertise on the part of the judges and involve economic questions of greater complexity than would probably confront the labor court. Yet few would deny this power to the federal courts because of the lack of objective standards.

The labor court could also be authorized to apply certain more general economic criteria in reaching its decisions. These standards would introduce into the process of wage determination issues beyond those of interest to the immediate parties. For example, the labor court could be empowered to make its wage decisions consistent with government monetary, fiscal, and balance of payments policies. The labor court could be utilized to achieve effective compliance with anti-inflation guidelines similar to those presently suggested by the Council of Economic Advisers. Or interested government agencies such as the Treasury or the C.E.A. could appear as *amicus curiae* before the court to expand the adversarial proceedings to include these more general economic problems.

Another difficulty presented by compulsory arbitration is the uneven impact of arbitration awards upon particular litigant companies in a competitive industry. (Neither public utilities nor industries which bargain on an industry-wide basis raise this problem.) Several suggestions, however, can be made to reduce the impact of this problem upon affected industries. The labor court could give weight to relevant data introduced under adversarial proceedings just as it might consider regional and job differentials. Or the court could rely upon succeeding rounds of bargaining to diffuse the effects of the award among the other organized firms in the industry.

The possibility of political influence always lurks in a government process like compulsory arbitration. The possibility, however, is not unique to compulsory arbitration; it arises relative to the federal judiciary and the independent regulatory commissions.

There is also the possibility that compulsory arbitration itself will be exploited. Because of internal politics either labor or management or both might prefer not to reach an agreement by means of collective bargaining. They might be tempted to pass the buck to the labor court by seeking compulsory arbitration immediately. In this way collective bargaining might atrophy as a vital process. What might be termed the Doctrine of the Inevitable Slide into Disaster is the logical extension of this fear of exploitation. Its advocates argue that compulsory arbitration would lead to the decline of collective bargaining and, therefore, to government control of wages. This, in turn, would require government control of prices and eventually a planned economy.

Others with a less dramatic flair nevertheless also fear the atrophy of collective bargaining and the resulting loss of the initiative and ingenuity which arises out of the decentralized decision-making process that is collective bargaining. They fear that solutions according to formulae would impose an undesirable rigidity upon labor-management relations. The experience of the War Labor Board and its "one after one and two after two" formula on vacations is viewed as representing this undesirable eventuality.

This probability of exploitation does pose a real threat. However, the following procedural suggestion might effectively reduce it. The jurisdiction of the labor court could be defined so that it would have to accept cases brought by the duly authorized government agency (for example, the National Labor Relations Board). The court, how-

ever, would be permitted to accept or reject appeals to its jurisdiction from labor or management; it would accept appeals to its jurisdiction from private parties only if it felt that a sufficient public interest was involved or if it believed that the parties were at a real impasse. This discretion given the labor court as to its jurisdiction might well be expected to reduce appreciably the ability to exploit compulsory arbitration and the resulting threat of the atrophy of collective bargaining.

THE ISSUE OF SANCTIONS

Under collective bargaining the need for sanctions to enforce compliance with terms of a contract is minimized, because the terms are negotiated by the parties themselves. Compliance can be expected as long as the power relations between the parties do not change significantly. Without such a change neither labor nor management can expect to negotiate terms more advantageous than the last time around. The effective sanction operating here is the mutual awareness of the parties that they must meet to bargain again. Frequent or flagrant breaches of an agreement obviously would raise suspicions as to the good faith of the offending party; collective bargaining would be disrupted and might perish. An acceptance of collective bargaining includes a strong commitment to comply.

Under compulsory arbitration, on the other hand, the basic problem is that labor and management must work under compulsion. The sanction which underwrites compliance with the order of a labor court is the police power of the state. Substantial noncompliance might be expected initially. Eventually, however, noncompliance should dwindle to a few sporadic but possibly dramatic events. Massive nonacceptance would, of course, reduce the utility of compulsory arbitration and could lead to its repeal as in the case of the experiment with Prohibition.

The state could order plant seizure to insure management's compliance with the order of a labor court, and prohibition of a strike to effect observance of a court ruling by labor. These could be enforced by the traditional threats of imprisonment or fines on both organizations and individuals. Other threats, more tailored to labor-management relationships, have been suggested. These include loss of seniority rights for striking employees and the decertification of offending unions.

In a democratic society, it is difficult to cope with wide-spread resistance. The present civil rights movement has demonstrated this. If this resistance were further reenforced by a supporting public opinion, it would be apparent that the law was not wanted. Repeal, of course, would be the answer. But this is an argument over the political feasibility and durability of compulsory arbitration. It is not an argument on the merits.

THE CONSTITUTIONAL ISSUE

One of the early attempts to establish a system of compulsory arbitration was made by the state of Kansas. With the enactment of the Industrial Court Act of 1920, Kansas provided for an Industrial Relations Court to administer the Act and to serve as a board of arbitration. The act forbade strikes and lockouts in industries "affected with a public interest." This included the manufacture or preparation of food products, the manufacture of clothing, the mining or production of any material commonly used as fuel, the transportation of any of these commodities from the place of production to the place of manufacture or consumption, and all public utilities and common carriers. The constitutionality of the act was challenged in 1921 in a case involving the meat packing industry. The company involved had reduced wages, and on the complaint of the unionized employees, the Industrial Relations Court ordered that wages be increased. The company refused to comply, and a suit was started which reached the Supreme Court of the United States.

The Supreme Court ruled in the *Wolff Packing Company*[1] case that the Kansas Industrial Relations Court's attempt to fix

[1] 262 U.S. 522 (1923).

wages in a competitive industry such as meat packing contravened the Fourteenth Amendment to the federal Constitution which provides that no state shall deprive any person of life, liberty, or property without due process of law. The Supreme Court reached a similar conclusion in a subsequent issue concerning the control of hours.[2] Thus this portion of the act was invalidated, but other parts, covering public utilities, remained in effect. They are still in effect, although they are little used because of the opposition of both labor and management and the lack of appropriated funds.

Although the Supreme Court decisions related only to the food industry, they indicated very strongly that statutes providing for compulsory arbitration of labor disputes would be unconstitutional if they were applied outside the field of public utilities or very large businesses, the national closure of which would result in public disaster. In all other areas, apparently, compulsory arbitration would fail the "due process" tests posed by the Fifth and Fourteenth Amendments.

The majority decisions in the *Wolff* cases were based on two legal theories. First, the majority adopted the substantive rather than the procedural view of the due process clause of the Fifth and Fourteenth Amendments. Under the substantive view the justices test the constitutionality of a statute by determining the consistency of its substantive provisions with a preconceived economic system. Compulsory arbitration was, in effect, found to be inconsistent with the principle of *laissez-faire*. And second, the majority of the court held to the structural definition of an industry affected with a public interest. This theory limited the regulatory authority of a state to those industries whose structural characteristics met the standards set by the court. The manufacture and preparation of food products did not meet these standards; consequently the Kansas law was unconstitutional as applied to food industries.

During the 1930's, the Supreme Court abandoned these two theories. The procedural view of due process was adopted; the constitutionality of a law, therefore, no longer depends upon its consistency with *laissez-faire*. The Court also abandoned the structural definition of a public interest industry. In effect, the standards by which public interest is defined and subsequent regulation defended are now determined by legislative bodies rather than by courts. As a result of this "constitutional revolution" it is possible that a compulsory arbitration law could be drafted at either the national or state level that would be found to be constitutional by the present Supreme Court. This would no longer appear to be a substantial issue.

It has been argued also that, by abrogating the right to strike, compulsory arbitration might face further constitutional difficulties under the Thirteenth Amendment which prohibits involuntary servitude except as punishment for a crime. In a Colorado case, however, the state court upheld the Colorado Industrial Commission Act, which prohibited strikes pending an award.[3] The court said that there was no involuntary servitude under the Act. Any individual could quit whenever he wanted to and there was not even a prohibition of a strike except before or during the Commission's action.

COMPULSORY ARBITRATION IN AMERICA

Probably the most important period of compulsory arbitration in the United States occurred during World War II, when the National War Labor Board acted as a final court for most unresolved labor disputes. Some disputes, as in the railroad industry, were transferred to special panels, but during its existence, the Board carried the major burden of the work. The Board was created by presidential executive order on January 12, 1942, and was tripartite in character with equal representation for labor, management, and the public.[4] If a dispute could not be settled by direct negotiations between the parties or by conciliation, it was either to be certified to the Board for decision, or (in some

[2] 267 U.S. 552 (1925).
[3] *People ex. rel. Keyes v. United Mine Workers of America,* 70 Colorado 269 (1921).
[4] Executive Order 9017.

cases) the Board could take jurisdiction on its own discretion. At first the only methods of enforcement were through publicity, or governmental pressures, or seizure of the plant by executive fiat. But on June 25, 1943, Congress enacted the War Labor Disputes Act which gave legal sanction to federal policy on labor disputes in war industries.[5] Among other provisions of the Act, the President was given the power to direct the seizure and operation of any plant, mine, or facility engaged in war production in which there was a disruption of production such that the war effort would be "unduly impeded." This was the power that provided the War Labor Board with the sanctions for compulsory arbitration.

The Act remained in effect until June 31, 1947, six months after the official ending of hostilities on December 30, 1946. During its life, the Board processed some 20,000 disputes cases. Of these, only 46 had to be referred to the President because the Board could not win compliance in any other way. Six of the 46 were settled by presidential persuasion. Only 40 were handled by plant seizure. But this was a wartime experience. As the war drew to a close, there were indications of increasing resistance to the Board's orders by both labor and management. If the Board had continued its effective operations into peacetime, it is doubtful that its wartime record could have been maintained. The Board had a lasting influence in a number of areas, however, including compulsory arbitration. As a result of the Board's experience, several states passed postwar laws providing for compulsory arbitration of labor disputes in public utilities.[6]

In the event of an emergency, when all else has failed, the federal government, at least, is apparently ready to resort to compulsory arbitration. The outstanding example is the railroad dispute over work rules which approached a strike deadline in the summer of 1963. President John F. Kennedy asked for special legislation, which Congress enacted, to provide compulsory arbitration to settle the main issues of the dispute.[7] The legislation provided for the appointment of an arbitration panel to make an award incorporating the matters of agreement between the carriers and the unions, resolving the matters where agreement was not reached, and giving due consideration to those matters on which the parties were in tentative agreement. The award was to be binding on both the companies and the unions, and was to constitute a complete and final disposition of the issues covered by the decision of the board of arbitration. All issues not disposed of by arbitration were to be resolved through collective bargaining.

When the arbitration board rendered its award, the unions objected and brought court action to impeach the special arbitration board and to set aside the award. The courts, however, upheld the legislation creating the board, and found that the award conformed with the requirements.[8] *Certiorari* to the Supreme Court was denied.[9] Thus compulsory arbitration once more entered the American industrial scene.

This was a unique case. Nothing like it had occurred before, and the special legislation was for one situation only. But does it forecast future possibilities? Both labor and management in the United States, with their traditional antipathy toward compulsory arbitration, are afraid that it might. To many observers, however, compulsory arbitration presents a better method of settling vital disputes than seizures or injunctive procedures. Unless more acceptable ways are found to protect the public interests in labor disputes, therefore, compulsory arbitration is likely to play an increasingly important role.

COMPULSORY ARBITRATION ABROAD

Since experiences with compulsory labor arbitration in the United States have been

[5] Public Law 89, Ch. 144, 78th Congress, 1st Session. The bill was passed over the veto of the President.

[6] In 1947, such laws were passed in Florida, Indiana, Michigan, Nebraska, New Jersey, Pennsylvania, and Wisconsin.

[7] Public Law 88–108, August 28, 1963, 77 Stat. 132.

[8] *Brotherhood of Locomotive Firemen v. Chicago, Burlington, and Quincey Railroad,* 225 F. Supp. 11; 331 F 2d 1020 Aff'd. (Feb. 20, 1964).

[9] *377 U.S. 918* (April 27, 1964).

relatively scarce, a fair appraisal of the operation of such a system requires examination of compulsory arbitration developments elsewhere in the world. For this purpose, the systems in three very different countries will be described, those in Australia, Singapore, and Norway.

Australia

The Australian arbitration system began in 1904 with the enactment of the Conciliation and Arbitration Act. The federal constitution paved the way for this legislation by giving the Commonwealth parliament the power to make laws for the Commonwealth with respect to "conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one state."[10] Thus Australia did not have the problem of constitutionality faced by the United States. Under the Act, the Commonwealth Court of Conciliation and Arbitration was established to achieve the stated objects of the Act, among which was "the provision of means for preventing and settling industrial disputes."[11]

The Court of Conciliation and Arbitration operated until 1956, when the High Court decided that the Constitution did not permit judicial functions to be conferred on the Court of Conciliation and Arbitration in respect to matters over which it also had legislative and administrative jurisdiction.[12] Thus, in 1956, two separate bodies were created, the Arbitration Commission and the Industrial Court. The job of the Arbitration Commission is to prevent or settle industrial disputes. The Industrial Court's main functions are to interpret awards made by the Commission and to determine certain questions of law.

The Commonwealth industrial tribunals have jurisdiction over interstate disputes, including disputes involving companies operating in more than one state, or unions with branches in more than one state. The various Australian states have their own systems covering intrastate disputes. Only those organizations which are registered according to the requirements of the Conciliation and Arbitration Act are subject to the legislation.[13] Nonregistered unions may bargain freely without the restraints of the Commission or Court. However, the advantages of belonging to the system and being able to use its facilities are so great that most important unions have registered. The influence of the nonregistered unions is relatively small.

The industrial tribunals establish wages, hours and numerous working conditions or fringe benefits. Wages are divided into two main parts, the basic wage and margins. The basic wage is the least anyone can be paid and presumably is set at the highest amount the economy can sustain.[14] Margins are approved payments above the basic wage to compensate for differences in the skill, training, and so forth, required in different jobs. Margins are a part of the awards and are enforced by the tribunals. This does not mean that the parties to an award may not bargain for amounts above the awards. They can, and frequently do. The awards are minima, not maxima, but the power of the tribunals will not be used to enforce over-award payments and benefits that the parties may have bargained on their own.

The awards are applied to industries, not just to individual companies. When an award is made, it covers only the respondents named in the award, but through a "roping-in" process, the award may be extended to others. Thus, in any industry covered by the Commonwealth tribunals, the wages, hours and working conditions tend to be uniform throughout the country. There are differences in the awards made by state tribunals covering intrastate disputes, but these differences usually are minor. The Commonwealth awards are made for a period of time ranging from one to five years, but an

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[10] Federal Constitution of the Commonwealth of Australia, Section 51 (XXXV).

[11] Conciliation and Arbitration Act, 1904–1961, Sec. 2.

[12] R. V. Kirby: *Ex Parte Boilermakers Society of Australia*, 94 C.L.R. 254.

[13] Conciliation and Arbitration Act, Section 4 defines "organization" as one registered pursuant to the Act.

[14] The Metal Trades Award, 1952, 84 C.A.R. 157, 171.

award remains in effect until it is superseded by a new award. The awards are enforced through a system of fines for breaches of awards. In cases involving contempt of court, the fines are much more severe than for breaches, and the penalty of imprisonment may be added.[15]

After more than 60 years of use, Australia's arbitration system is now firmly established. There is some talk, particularly by the labor unions, of placing more emphasis on collective bargaining, but no serious steps have been taken toward a radical revision of the system for more than 30 years. Employers and unions both are accustomed to the present system and are reasonably satisfied with it. As explained, some collective bargaining takes place above the awards, but actually the parties have had little experience with true collective bargaining. Restrictions may be placed on the economic action they are permitted to take, and the area of collective bargaining thus may be severely limited. Both parties depend heavily on the industrial tribunals. It would be difficult now for Australian employers or unions to get along without them.

The Australian system has not succeeded in eliminating work stoppages, however. In 1952, the peak postwar year for strikes, there were over 1,600 work stoppages, and in 1962 there were more than 1,200. Still, in recent times, most strikes have been of relatively short duration and are becoming shorter.[16] Often they are called for demonstration purposes, and are over before the arbitration machinery can be put into motion. The most severe criticisms of the system come from another direction.

The philosophy underlying compulsory arbitration in Australia is that there is a third party to industrial disputes, the general public. The interests of the public must be protected even though the protection necessitates restrictions on the activities of employers and employees. In practicing this philosophy, the Australian industrial tribunals have gained great influence over the operation of the economy. Wages, hours and working conditions depend upon the tribunals' actions, and these actions obviously are reflected throughout the economic life of the nation. Questions arise, therefore, as to whether this influence is justified, and as to whether it is being used properly.

When the Commonwealth Court of Conciliation and Arbitration first established the basic wage in 1907, its stated purpose was to provide a fair and reasonable wage for "the normal needs of the average employee, regarded as a human being living in a civilized community."[17] This statement expresses the "living wage" idea, that it is in the public interest to provide workers with wages high enough to allow them to live decently according to the standards of the community. Over the years, however, the "living wage" idea gave way to "ability-to-pay." The Commission now assesses the basic wage at the highest amount it believes the economy can sustain.[18] It is still important to provide a living wage, but in order to achieve this goal, it is believed necessary to encourage and maintain a prosperous economy. The same type of historical development took place with regard to hours and working conditions.

The stress upon economic criteria has caused severe criticisms of some of the tribunals' actions, not only because social ideals are relegated to second place, but because the tribunals have taken to themselves the authority to select, analyze, interpret and apply the economic data used. The Court follows the rule that the basic wage should be established at the highest point the economy can sustain, but it is the Court that also decides what the highest point is. Few trained economists would find themselves in agreement as to the amount or as to the data and method to be employed to compute it. Yet the court makes decisions of this type frequently. The Commission and Court may ask for expert advice, but they are the ones who choose the experts and determine

[15] Conciliation and Arbitration Act. 1904–1961, *op. cit.*, Sec. 109–111; 119–122.

[16] Department of Labour and National Service, *Industrial Disputes in Australia,* Table B, p. 15; Table L, p. 25.

[17] *Ex Parte H. V. McKay,* 2 C.A.R. 1, 6–7.

[18] The Metal Trades Award, 1952, 84 C.A.R. 157, 171.

whose opinion to follow. It has been suggested that tribunals should confine themselves to industrial relations decisions and to leave the economic health of the country to others, such as the monetary authorities. After the years of precedents, however, it is extremely doubtful that such a suggestion could be implemented, and the tribunals are likely to maintain their power to influence the rate and direction of economic growth.

Along with the assumption of great economic power, the tribunals are criticized as being too conservative. They are accused of underestimating the basic wage and margins, and of unreasonably delaying improvements in working conditions. The workers are said to suffer because of the tribunals' fear of inflation or fear of throttling enterprise. The tribunals' answer is that the country has progressed, and that the workers have made great gains without straining the economy. It is impossible actually to prove that better results could have been achieved if the tribunals had been more liberal, and there are few who maintain that the tribunals have not been at least reasonably successful.

Finally, the compulsory arbitration system is criticized, because it has developed a great bureaucracy, not only within the government, but within employers' and employees' organizations. There is an army of people who have a vested interest in the maintenance of the system, and there is danger that this vested interest might sacrifice industrial justice to political expediency. Individuals or political parties might use the compulsory arbitration system to promote their own ambitions. The tribunals might render their decisions for vote-getting purposes rather than to protect the public interest. Actually there are no serious indications that this has happened in Australia, and the tribunals point out that any judicial system is subject to the same peril. The success of any judicial system depends upon the integrity and ability of those who are operating it. There are dangers, of course, but the dangers are no greater for compulsory arbitration tribunals than they are for ordinary courts of law.

Singapore

The labor-management arbitration system in Singapore is an attempt to combine the best features of compulsory arbitration with the best features of free collective bargaining, and to adapt the combination to the social, political, and economic conditions in Singapore. It is more than a compromise between the Australian and the American systems, because it has been designed to meet the distinctive features and problems of the Singapore community.

The 1960 Industrial Relations Ordinance[19] provides the basic rules governing industrial relations in the State of Singapore. It stresses collective bargaining, but it creates an Industrial Arbitration Court to practice arbitration at the joint request of the parties or when the situation appears to demand such action in the public interest. It is this last feature that introduces compulsory arbitration into the system, and it occurs when the Minister of Labour directs that the trade disputes be submitted to arbitration, or when the Yang di-Pertuan Negara (Chief of State) declares by proclamation that because of special circumstances it is essential in the public interest that a trade dispute be submitted to arbitration. In determining the dispute, the Court is authorized to regard not only the interests of the community as a whole but also the condition of the economy of the state.[20] As in the Australian system, the economic aspects of the public interest are emphasized.

(*Continued on page 116*)

[19] No. 20 of 1960, February 25.

[20] Industrial Relations Ordinance, 1960, No. 20 of 1960, February 25, 1960, Part IV, Arbitration, Sec. 28, 31.

Paul L. Kleinsorge has been Professor of Economics at the University of Oregon since 1948 and is now Director of its Institute of Industrial and Labor Relations. He has written widely on collective bargaining and arbitration and has served as a private arbitrator for many years. **Robert E. Smith** was formerly in the Department of Economics at the University of Utah.

President's Message to Congress on Labor

On May 18, 1965, President Lyndon B. Johnson recommended that Congress act to amend the Fair Labor Standards Act, to strengthen the unemployment insurance program and to repeal Section 14(B) of the Taft-Hartley Act. The text of the President's message to Congress follows:

To the Congress of the United States:

The last 30 years have seen unprecedented economic development in this country and unparalleled improvement in the general standard of living of the working men and women of America.

Most of this has been accomplished privately. These are the fruits of free enterprise.

This process of economic and human growth has been helped by wise legislative enactment, much of it beginning in the decade of the nineteen thirties.

But progress is never complete. Experience under various existing laws suggests changes which will make them serve even better their purpose, the nation's workers, and the economy.

I am accordingly urging early action to:

1. Amend the Fair Labor Standards Act to extend its protection to an additional 4½ million workers, and restrict excessive overtime work through the payment of double time.

2. Strengthen the unemployment insurance program by providing a permanent program of federal extended benefits for long-term unemployed with substantial work histories.

3. Ensure uniform application of our national labor relations policy by the repeal of Section 14(B) of the National Labor Relations Act.

I am transmitting herewith draft bills on the first two proposals. Bills embodying the third have already been introduced in Congress.

More than a generation of Americans have entered the labor force since we committed ourselves as a nation to the policy of improving the substandard living conditions of millions of our workers.

That policy proposed to eliminate conditions which are "detrimental to the maintenance of the minimum standard of living necessary for health, efficiency and general well-being of workers" in industries engaged in interstate commerce.

Many American workers whose employment is clearly within the reach of this law have never enjoyed its benefits. Unfortunately, these workers are generally in the lowest wage groups and most in need of wage and hour protection. We must extend minimum wage and overtime protection to them.

It is also essential to amend the overtime provisions of the act to help achieve a fairer and more effective distribution of employment.

A significant increase in employment can be obtained by distributing to new employes work which is presently performed through excessive overtime. This can be done without impairment of operating efficiency.

The proposed bill will encourage hiring of additional workers by requiring doubletime pay for certain overtime work.

It has been urged that the minimum wage level be increased. The present $1.25 hourly rate results in annual earnings, assuming full time work throughout the year, of only $2,500. As average wages rise, the minimum

wage level should be increased periodically.

The question is not whether the minimum wage should be increased but when and by how much. The Congress should consider carefully the effects of higher minimum wage rates on the incomes of those employed, and also on costs and prices, and on job opportunities—particularly for the flood of teenagers now entering our labor force.

It has also been urged that consideration be given to a reduction in the statutory workweek—the weekly period after which overtime premiums or penalties must be paid.

The developing pattern of collective bargaining reflects changes which are taking place in the practices regarding the length of work periods—daily, weekly, annually, and in terms of the individual's work life.

I do not think the time for change in the law has come, except with respect to excessive overtime. Careful attention to these developments is nevertheless appropriate and desirable. I am accordingly requesting the National Commission on Technology, Automation, and Economic Progress to include on its agenda full consideration of the matter of "work periods."

Improvements in our unemployment compensation system are essential if the program is to exert a stronger stabilizing effect on the economy and provide people with adequate income when out of work. The system has not kept pace with the times. No major improvements have been made since its original enactment 30 years ago.

There are still many workers who are not protected by unemployment compensation. Other workers, through no fault of their own, experience excessively long periods of uncompensated unemployment.

The plight of the long-term unemployed results primarily from economic factors such as automation, other technological changes, and relocation of industry. Their unemployment is a phenomenon of normal as well as recession periods. It can be dealt with effectively only through a nationally coordinated program.

Even in nonrecession periods of recent years, the number of long-term unemployed has remained high. Among unemployment insurance beneficiaries, those unemployed 26 or more weeks represented 15 per cent of the total in 1956, 29 per cent in 1961, and about 20 per cent in 1962 and 1964.

The wider coverage, extended benefit periods, and increased benefit amounts provided in the bill will lessen the hardship and suffering that accompany unemployment and, at the same time, provide stimulus to the economy when it is most needed.

Now, when unemployment is lower than it has been for years, is the appropriate time to modernize the system so that it will better meet the needs of workers, the community and the nation.

Today, weekly benefits are often too low in amount and too short in duration in relation to lost wages to enable the workers to meet basic and nondeferrable expenses. Ceilings on compensation all too often fail to yield the original goal of 50 per cent of past wages. This is particularly true for workers who have the highest income levels, and these workers are generally heads of family. The bill therefore assures adequate payments for a fixed duration for most regular workers.

The burden of excessively high unemployment costs that exist in several states must be relieved and the financial soundness of the system strengthened. This will be achieved by increasing the amount of wages subject to taxation—the first increase in the history of the program—as well as by increasing the amount of tax and recognizing the federal responsibility through provision for contributions from general revenues, with matching grants for high-cost states.

It is essential that this system be administered with both justice and firmness. We know some workers have been denied benefits when justice required payment. We also know some workers have been granted benefits when firmness required their denial. For this reason the proposed legislation calls for steps which will help assure that benefits are paid only to those who are entitled to them and that unreasonable disqualifications are eliminated.

(*Continued on page 114*)

BOOK REVIEWS

Readings on Labor-Management: II†

By MARY C. SHEBESTA
University of Illinois

Harrison, William T. *The Truth about Right-to-Work Laws.* Washington, D.C.: National Right to Work Committee, 1959. 180 p.

This book contains the affirmative case for state "right-to-work" laws, perceived as part of a progressive interest in preserving the individual tenets of freedom and liberty. Included is an analytical description of the origin and struggles accompanying the campaign for the right to work. Immediately preceding the appendix is a list of reading references, pro and con, on the "right-to-work" issue, compiled by the Labor Relations Division of the United States Chamber of Commerce.

International Association of Machinists. *Right to Work Laws: Three Moral Studies.* Washington, D.C.: IAM, 1955. 55 p.

Leading Catholic, Jewish, and Protestant spokemen discuss the moral aspects of union security.

Jacobson, Howard B. and Joseph S. Roucek (eds.). *Automation and Society.* New York: Philosophical Library, Inc., 1959. 553 p.

Automation is viewed by the authors as a twentieth century symbol for progress and change. Each economic revolution has thrust our society into a new civilization characterized by different institutions and different social relations than the preceding. The origins and evolution of automation is traced; the characteristics and implications of automation are surveyed in selective industries from the past to the present with a view to the future.

Jones, D. L. *The Implications of the Right-to-Work Laws.* Detroit: Wayne State University, Institute of Labor and Industrial Relations.

The author discusses the legality of union security provisions; democratic and ethical considerations of union security provisions and other aspects.

Keller, E. A., Rev. *The Case for Right-to-Work Laws: A Defense of Voluntary Unionism.* Chicago: The Heritage Foundation, 1956. 128 p.

The author presents a case in defense of "right-to-work" laws primarily from a moral point of view.

Keller, Leonard A. *The Management Function: A Positive Approach to Labor Relations.* Washington, D.C.: BNA Inc., 1963. 289 p.

A good realistic starting point for good labor relations is recognizing that the function and responsibilities of management are fundamentally different from the function and responsibilities of unions. The key to good labor relations is a company policy of acceptance of the union and the installation and execution of good policies and practices at all administrative levels. Two attributes of a constructive workable contract are clarity and certainty. Security promotes effective labor-management relations.

Kerr, Clark and others. *The Public Interest in National Labor Policy.* New York: Committee for Economic Development, 1961. 158 p.

Collective bargaining, the new form of industrial relations dating from the mid-1930's is working fairly well today considering the complex problems confronting labor and management. A wide variety of labor problem

† Part I of this reading list appeared in *Current History's* July, 1965, issue.

are an integral component of an industrial system characterized by diverging and conflicting interests. Among the suggestions offered here are the following. Extreme caution and wise discretion should be exercised in utilizing Taft-Hartley machinery for handling industrial emergency disputes. Mediation is preferable to compulsory government action. In view of the structure of our economy, proposals to restrict the size of unions and bargaining unit are unrealistic. National policy which permits states to deny to unions and employers the right to agree on a union shop should be revised.

Lee, William James. *"Right-to-Work" Laws: Some Economic and Ethical Aspects.* Washington, D.C.: The Catholic University of America Press, 1961. 32 p.

The issue of union security is the central core of trade union philosophy stemming from the first attempt by workers to organize in an effort to protect and advance their interests. The current controversy centering on this trade union objective assumes increasing significance as it moves from the economic sphere of our society into the political arena. Accompanying this shift are crystallizing adverse effects on the relationship between employees and employers.

Lester, R. A. *As Unions Mature.* Princeton: Princeton University Press, 1958. 171 p.

In this study, chapter two provides a summary of union development in the U.S.; chapter 6 provides a general discussion of basic problems in American unionism which appear to need correction.

McGuire, Joseph W. *Business and Society.* New York: McGraw-Hill Book Co., Inc., 1963. 312 p.

The author gives a historical background of the origin of capitalism and traces the growth of business in the United States. He discusses business problems in relation to government, labor, the individual and society. The last chapter deals with future prospects for the business system. The author contends that business leaders today are becoming more aware of their social responsibility to the public.

McNaughton, Wayne Leslie. *The Development of Labor Relations Law.* Washington, D.C.: American Council on Public Affairs, 1941. 197 p.

The author's major concern is the evolution of law governing collective bargaining and similar labor activities. Laws emerge out of a societal commitment to maintaining harmonious relationships and a balanced stable industrial system. Laws designed to protect employers, employees, and the public are examined. A description of the origin and function of the N.L.R.B. is included.

Metz, H. W. *Labor Policies of the Federal Government.* Washington: Brookings Institution, 1945. 284 p.

The author gives a historical background and explanation of the basic concepts of labor relations.

Metz, Harold W. and Meyer Jacobstein. *A National Labor Policy.* Washington, D.C.: The Brookings Institution, 1947.

Chapter five of this study is relevant to issue of industry-wide bargaining. The author believes that collective bargaining between employers and workers should be restricted to the specific company for reasons of economic efficiency. Legislative restriction on industry-wide bargaining is desirable because such a pattern of bargaining results in monopolistic unionism, strikes which damage the economy, and price fixing. Chapter nine cites government agencies which have in the past facilitated industry-wide bargaining.

Mund, Vernon A. *Government and Business* (3rd ed.). New York: Harper and Brothers, 1960. 548 p.

The history of public policy towards business is traced and recent trends and developments in regulating and controlling business are discussed. Problems confronting government with regard to regulating business are analyzed. The author contends that there is considerable public pressure on government to stop the trend towards increasing concentration of economic power as evidenced by passage of the Antimerger Act in 1950.

Myers, J. and H. Laidler. *What Do You Know About Labor?* New York: John Day Co., 1956. 301 p.

This study covers the background of labor up to 1956.

"National and Emergency Labor Disputes," *Subcommittee Hearings on Labor and Management Relations,* U.S. Senate, 82nd Con-

gress, 2nd Sess., Washington, D.C.: U.S. Printing Office, 1952. 767 p.

The individual views of Congressmen regarding union power, union and management responsibility, issues and disputes, and means for coping with national emergency strikes are offered here.

National Association of Manufacturers. *Twenty Questions About the Right-to-Work.* New York: Industrial Relations Division, June, 1956. 15 p.

This consists of a list of 20 questions and answers based on the N.A.M. point of view.

"National Labor Relations Board," Symposium on the N.L.R.B., *The George Washington Law Review,* Vol. 29: No. 2, December, 1960. 494 p.

This special issue celebrating the silver anniversary of the N.L.R.B. covers the origin and early history of the N.L.R.B., later history and recent developments, issues which come before the N.L.R.B., problems of organization and administration, practices and procedures, and a review of the right to strike.

O'Mahoney, Joseph C., and others. *The Challenge of Automation.* Washington, D.C.: Public Affairs Press, 1955. 77 p.

This is a collection of articles presented at the National Conference on Automation held in Washington in April, 1955. Distinguished congressmen, academicians, and trade union officials present the challenge of automation with a view to its economic and social significance and public policy implications.

Pritchard, John (ed.). *Labor-Management Dynamics.* Detroit: Board of Education of the City of Detroit, 1961. 288 p.

The content of the book focuses on the social and economic roles of labor, management, the consumer, and the government as related to the complexities of mid-twentieth century life. The interdependence which exists among all sectors of the economy is stressed. The historical growth of American business and trade unions, and the current status of each is described and analyzed. Pro and con arguments related to the "right-to-work" issue are reflected in statements by the N.A.M. and the A.F.L.-C.I.O.

Reder, Melvin W. *Labor in a Growing Economy.* New York: John Wiley and Sons, Inc., 1957. 534 p.

The origins of varied sources of industria disputes are identified. American trad union growth, its achievements, and its fail ures are reviewed from a period preceding th Civil War to the present. The purpose philosophy, and politics of American unionisn are examined. The desirability of free collec tive bargaining as opposed to compulsor arbitration, and the attendant problem o strikes damaging the public are analyzed.

Reynolds, Lloyd G. *Labor Economics and La bor Relations* (3rd ed.). Englewood: Pren tice-Hall, Inc., 1959. 568 p.

Of special interest in this study is Part I which deals with the history of trade union and their philosophy and objectives, labo legislation and collective bargaining—th scope and issues including arguments fo and against union shop, the legality of strike and government control of emergency dis putes. The heated controversy concernin the progressive movement of unions into th area of management is discussed.

Salvadori, Massimo. *The Economics of Fre dom.* New York: Doubleday and Co., Inc 1959. 242 p.

The author provides background in th form of a descriptive analysis of the esser tial characteristics of contemporary America capitalism, its central institutions and mo widely held values. He contends that th most important problem from the standpoir of the individual is the maintenance of secu ity, and that such security depends to a gre extent on the stability of the economic sy tem in its entirety.

Shister, Joseph (ed.). *Readings in Labor Ec nomics and Industrial Relations* (2nd ed. New York: J. B. Lippincott Co., 195 673 p.

Parts I, II and III, dealing with the Ame ican workers, trade unionism, and colle tive bargaining, are particularly relevant f understanding union objectives and goal The articles cover a wide range of industri relation topics. The nature, scope, conter procedures and patterns of collective ba gaining are examined. Historical and cu rent trade union and management policies ar practices are described. Some attention given to economic power, union membersh trends, technological change, past and prese status of labor legislation, and the role government in labor relations.

Shostak, Arthur B. *America's Forgotten Labor Organization.* Princeton: Princeton University Press, 1962. 139 p.

The single-firm independent union—its history, characteristics, function, and place in the American economy—is surveyed. Its survival and ability to bargain in an industrial system composed of power conglomerates is unique. The author concludes that much needs to be done to increase the effectiveness of the single-firm independent union but the future lies largely in the hands of its membership.

Shott, J. G. *How "Right-to-Work" Laws are Passed.* Washington, D.C.: Public Affairs Institute, 1956. 80 p.

It is the author's contention that a great many unfavorable and irrelevant factors were responsible for the passage of the first legislation of this kind, the Florida Constitutional Amendment of 1944 prohibiting union security agreements.

Slichter, Sumner H. *What's Ahead for American Business.* Boston: Little, Brown and Co., 1951. 216 p.

Between the Great Depression and the advent of World War II, new types of enterprises emerged, new methods for conducting business were applied, trade unions grew in power, and production, taxes, and the public debt sky-rocketed. The author demonstrates that three-fifths of the workers in private industry are employed by firms with less than 500 workers. As research becomes more important in industry, small business will be put in a disadvantageous competitive situation, and in the battle for qualified managers small concerns are likely to lose out.

Somers, Gerald, Edward Cushman, and Nat Weinberg (eds.). *Adjusting to Technological Change.* New York: Harper and Row, 1963. 230 p.

Automation, the most recent variant of technological change, has had a significant impact on labor-management relations. Like its predecessors, mechanization and mass production, automation creates as well as solves problems. The challenge of the future lies in our ability to reap the benefits of technological change with a minimum amount of human suffering and cost to society.

Starr, M. *Labor and the American Way.* New York: Oxford Book Co., 1958. 92 p.

This study presents a history of the American labor movement and a description of the structure and activities of present day unions.

Taylor, A. G. *Labor Problems and Labor Law.* New York: Prentice-Hall, 1950. 608 p.

In this book, chapter 19 on public powers and labor law is especially relevant; it presents a description, and the purpose, of labor legislation.

Taylor, George W. *Government Regulation of Industrial Relations.* New York: Prentice-Hall, Inc. 1948. 383 p.

This covers the type and scope of government regulation in the field of labor relations; increasing penetration of government into area of collective bargaining; the union security issue and the rights of employers and employees as related to strikes and lockouts.

Teller, L. *A Labor Policy for America.* New York: Baker, Voorhiss and Co., 1945. 334 p.

The author presents a proposed labor code.

Teller, Ludwig. *Management Functions under Collective Bargaining.* New York: Baker, Voorhiss and Co., 1947. 468 p.

Part II, which deals with the management function in relation to labor policy, covers such areas as the scope and purpose of legislative action in labor controversies, the closed shop issue, tendencies towards industry-wide bargaining, compulsory arbitration, and labor-management responsibilities.

Toner, Jerome L. *The Closed Shop.* Washington: The American Council on Public Affairs, 1944. 205 p.

This is a historical review of the closed shop, which was outlawed by the Taft-Hartley Act in 1947. The use of the closed shop principle of "exclusion" as used by early tradesmen and closed shop unionism is related to the evolution of labor-management relations.

United Steelworkers of America. *Work for Rights.* Pittsburgh, not dated. 108 p.

According to the United Steelworkers, "right-to-work" laws destroy the fundamental principles of collective bargaining. The great

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THE N.L.R.B.

(*Continued from page 84*)

Notwithstanding its accomplishments, the Board remains a controversial institution. The key to understanding the nature of this controversy lies in its basic task of striking a balance amid the competing interests of union and employer. Over the years, shifting political tides pull one way or the other and the Board quite properly is responsive to these forces. In a democracy, no other way is possible. While the Board will always remain a target for criticism from both employers and unions, its work rests upon a broad basis of community acceptance which presages little if any fundamental change in the national labor policy in the foreseeable future.

STATE "RIGHT-TO-WORK" LAWS

(*Continued from page 90*)

As a practical matter, it is likely that "right-to-work" laws have strengthened employers who are hostile to unions and unionization, and probably have not influenced those who are neutral or friendly. In "right-to-work" states, internal relations may frequently be strained if a union leader is attempting to maintain a delicate balance between a vocal minority group, the rest of the members, and the management. Unfortunately, the available information does not lend itself to any statistical measurement, and how important or serious a problem this is cannot be ascertained.

The "right-to-work" debate has been primarily a socio-political struggle, since the issues at the heart of the controversy often revolve around the acceptability of unions, their role in society and, equally important, the political power they maintain. Supporters of this type of legislation clearly indicate that they wish to reduce the power of unions in both the economic and political spheres. It is interesting to note that, as a general rule, union power in "right-to-work" states was not exceedingly strong prior to the passage of the law. (Indiana was a major exception.) It may be that "right-to-work" laws have actually been able to keep unions on the defensive, and perhaps weak; if so, this shows the achievement of the goal of the "right-to-work" program.

It is probable that the "right-to-work" issue will continue to be fought on political grounds, with political and moral symbols as weapons, and with side orders of economic arguments perhaps served up as well. As has been true in most cases, the realities of union-management relations and collective bargaining processes will probably not exercise a great influence on the ultimate decisions.

MULTIEMPLOYER BARGAINING

(*Continued from page 96*)

present. In the railroad, maritime and shipbuilding industries, substantial dealings with government are required. Settlements in collective bargaining directly affect the rates or prices which the government will be called upon to approve. Under these circumstances, employer unity has long since become a necessity.

In another important industry, basic steel, general industry-wide bargaining was undertaken only after years of formal collaboration made the facade of separate bargaining unrealistic. Joint negotiations were also encouraged by the need to make common industry presentations to government boards during World War II and the Korean conflict. The limited extent of these kinds of special conditions do not appear to presage more industry-wide bargaining in other major industries.

In summary, the pressures toward substantial increases in the amount of industry-wide bargaining in the United States do not appear great. In those industries where industry-wide or region-wide bargaining now exists, however, both labor and management (with extremely limited exceptions) support it strongly. They believe that it is necessary to preserve a rational system of industrial relations.

Over the years, some observers of the collective bargaining process have claimed that unions or companies possess too much power for the good of the public. Yet it does not appear that there is strong support at present for a wide-ranging ban on regional or industry-wide bargaining. The most recent congressional investigation of the association bargaining process, in December, 1964 stated:

> [It] is our conclusion that in the area of multiemployer association collective bargaining the balancing of power between unions and employers has been quite successfully achieved. Those who fear the results of "big unions" and "big employers" will gain very little support for their positions from the history and results of multiemployer association collective bargaining.[2]

Current litigation surrounding aspects of the multiemployer bargaining process may result in demands that Congress modify existing relationships. At present, it seems unlikely that Congress will feel it necessary to limit the size of bargaining units in order to protect the public from practices growing out of excesses of accumulated power. To do so would be to modify too greatly the viable relationships and balances of power that labor and management have developed in many industries.

[2] "Multiemployer Association Collective Bargaining and its Impact on the Collective Bargaining Process," Report of the General Subcommittee on Labor, Committee on Education and Labor, U.S. House of Representatives, 88th Cong., 2nd Sess., 1964, p. 32.

BOOK REVIEWS

(*Continued from page 111*)

majority of workers desire union security as evidenced by union shop authorization polls administered by the N.L.R.B. between 1947 and 1951. Additional arguments in defense of union shop are given.

an Sickle, John V. *Industry-Wide Bargaining and the Public Interest.* New York: American Enterprise Association, 1947. 20 p.

The author approaches this issue from the the point of view that the competitive individual enterprise system serves the best interests of the public and industry-wide bargaining weakens the system by destroying purchasing power, by reducing wages and increasing wage inequalities, by inflicting undesirable disadvantages on the small enterprise, and by promoting a capitalism characterized by monopoly and cartelization.

Vatter, Harold. *The United States Economy in the 1950's.* New York: W. W. Norton and Co., Inc., 1963. 308 p.

Chapter 1, identifying features of the 1950's, chapter 6, historical developments in the business sector, chapter 8, labor history and labor legislation, and chapter 10, investment and public policy, are relevant. The author claims that the 1950's was a decade of "public interest in private decisions". An example of increasing government intervention into the affairs of private organizations is the Landrum-Griffin Act passed in 1959.

Warne, Colston E. (ed.). "Industry-wide Collective Bargaining: Promise or Menace," *Problems in American Civilization.* Boston: D. C. Heath and Co., 1950. 113 p.

This is a historical view of the emergence of industry-wide bargaining and the factors and forces involved. A number of questions are posed. To what extent does industry-wide bargaining advance or impede economic progress? Is industry-wide bargaining an undesirable inflationary stimulus? To what extent does industry-wide bargaining foster monopoly and limit the freedom of individual employers and local unions? Does such bargaining create an industrial relations climate conducive to responsible collective bargaining?

Wiedemann, Charles. *Labor-Management Relations.* New York: Reinhold Publishing Corporation, 1959. 142 p.

This encompasses a short historical description of labor legislation. Chapters 5–7 on Union Security, "Right-to-Work" Laws, and Management Rights are especially relevant.

Wolman, Leo. *Industry-wide Bargaining.* New York: The Foundation for Economic Education, 1948. 63 p.

The author defines industry-wide bargaining and explores its political and economic consequences, suggesting that industry-wide bargaining is closely related to the rapid growth of trade unions since 1935.

Yoder, D. *You and Unions.* Chicago: Science Research Associates, 1951. 48 p.

This is a discussion of why and how unions grow, their aims and the methods they use to achieve them, their organization, and the part union members play in union activities and policy making.

Young, Dallas M. *Understanding Labor Problems.* New York: McGraw-Hill Book Co., Inc., 1959. 477 p.

The book is primarily designed to provide the novice with a comprehensive understanding of economic, political, and social aspects of labor activities. The analytical tools of the author are the contract, industrial issues in collective bargaining, and labor legislation.

THE PRESIDENT TO CONGRESS

(*Continued from page 107*)

Finally, with the hope of reducing conflicts in our national labor policy that for several years have divided Americans in various states, I recommend the repeal of Section 14(B) of the Taft-Hartley Act with such other technical changes as are made necessary by this action.

I urge that early and favorable consideration be given to the enactment of these three legislative proposals.

THE CHALLENGE OF AUTOMATION

(*Continued from page 76*)

the labor input requirement. The implications are that management will be deeply involved in the future in the management of change.

Industry now provides, and should continue to provide, the primary source of on-the-job training and retraining experiences for the nation's work force. These private efforts are supplemented, when necessary, by public programs such as the Manpower Development and Training Act, the Vocational Education Act and the Economic Opportunity Act. It may also become the responsibility of management to facilitate transition to work in the labor market beyond the firm or to provide various economic guarantee or indemnification to those displaced by technology, through no fault of their own.[9]

Lastly, technological progress clearly must bring changes in our economy—changes that are not only inevitable but can be desirable arbitrary efforts to prevent change will only create problems where none otherwise would exist.

TECHNOLOGY IN SERVICE

In modern America we have, for the first time, the means to add without subtracting to pay Peter but not at Paul's expense. If current productivity increases continue throughout the remainder of this century the average family income will approach $18,000 per year. Our scientific and industrial technology has made it possible to enjoy an extra automobile or television set, better measures of security, a longer, healthier life and more leisure. All of this and more is available to many of our citizens—but not all.

Increasing numbers of our young people are growing up with inadequate education for today's world. Our cities become more and more congested with people, by traffic and polluted air. Tens of thousands live in totally inadequate, filth-ridden housing. Large regions of the country face water shortages on the one hand, or terrible floods on the other. Citizens complain about the increase in crime and juvenile delinquency. Some communities face virtual extinction as a result of growing problems of stream pollution and waste disposal, or the decline and departure of industries.

If, as President Johnson has said, this nation is ever to become a "Great Society," we must turn our technology to the task of solving these critical social problems. The opportunities and challenges are everywhere

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[9] For a comprehensive look at the role of labor and management in a changing economic climate, see "The Contribution of Collective Bargaining," by Arnold R. Weber, presented at a conference on the Manpower Implications of Automation sponsored by the Organisation for Economic Co-Operation and Development, held in Washington, D.C., December 8–10, 1964.

LABOR-MANAGEMENT UNDER THE ADMINISTRATION

(*Continued from page 70*)

They may also, however, have adverse effects: for example, on price stability, as the President himself noted with respect to the Fair Labor Standards Act.

These programs thus belong in both the manpower policy and incomes policy boxes. But where does the repeal of Section 14(b) fit into the President's labor policy program?

WAGE-PRICE GUIDELINES AND UNION RESPONSIBILITY

The wage-price relationship is one of the dilemmas of our time. Our economy can provide a high level of employment or a high level of price stability, but not both at the same time. We have a choice of holding prices down and having somewhat more unemployment, or of reducing unemployment to a more acceptable level and experiencing at least some increase in prices.

After unemployment drops below a certain level, pressures for higher wages arise from a demand for labor. At this point, unless restraint is consciously exercised, wages rise more rapidly than does the ability of the economy to produce additional goods and services for the consumer to purchase. Prices must rise, because too much money now chases too few goods. Yet if restraint is exercised through fiscal or monetary measures, and the money available to purchase these additional goods is then not forthcoming, the opposite process takes place. Prices fall, because demand is lacking, and men are laid off.

The obvious, possible, but difficult-to-attain solution to this dilemma is to keep the increase in wages in line with the increase in productivity, which is the measure of the ability of the economy to produce extra goods and services. With such balanced growth, some unemployment and some increases in prices occur, but both remain within the limits of tolerance of a stable, growing economy.

The formula for maintaining this balanced growth with relative stability is that contained in the wage-price guideposts. These were originally advanced in 1962, during the Kennedy administration. They were accepted and firmly restated by President Johnson. As they appear in the 1965 Economic Report of the President they are simple and straightforward:

> 1. The general guide for wages is that the percentage increase in total employee compensation per man-hour be equal to the national trend rate of increase in output per man-hour.
>
> If industry follows this guidepost, unit labor costs in the over-all economy will maintain a constant average.
>
> 2. The general guide for prices calls for stable prices in industries enjoying the same productivity growth as the average for the economy; rising prices in industries with smaller than average productivity gains; and declining prices in industries with greater than average productivity gains.
>
> If each industry follows this guidepost, prices in the economy will maintain a constant average.

As the report observes, these guideposts "contain an inescapable economic logic." They also present some inescapable problems of implementation. The cooperation of both management and labor is essential to make them effective. Leaving aside the management aspect, how is the cooperation of labor to be secured?

In part, it may be secured by an appeal to the social conscience and civic responsibility of labor's leaders. In part, it may be secured by recognition of their economic self-interest. Wage gains that are wiped out by price increases benefit only management, not labor.

But to exercise responsibility and economic foresight, labor must have the support of its rank and file. This, in recent months, has been something the leaders of labor can no longer take for granted. In major unions such as the steel workers, the electrical workers, the rubber workers, the papermakers, rank and file revolts have thrown out incumbent officials and split unions. Today's labor leaders require all the support they can obtain if they are to continue to exercise economic responsibility in the face of internal unrest.

It is in this context that the support of the Johnson administration of the repeal of Section 14(b) should be seen. Nothing has stirred the labor union officers and the active union members more than the issue of union security. Nothing has done more to contribute to labor unrest than the inability to stop the inroads of runaway shop competition in the "right-to-work" states. If the exercise of economic restraint is to be practical for union officials, labor requires additional union security on a national basis. If additional union security is forthcoming, union officials can then better exercise economic restraint because they will not need the support they might otherwise have to obtain from the rank and file by aggressive efforts to increase wages. They will have the protection of union security clauses in their contracts to prevent losses in membership from labor turnover.

Viewed from this aspect, repeal of Section 14(b) becomes a vital part of the labor policy program of the Johnson administration. Early action toward repeal may contribute materially, for example, to a final and noninflationary settlement of the pending steel contract negotiations. Support of the repeal of 14(b) by the President is much more than the paying off of an election debt.

As the President noted in his Labor Message, repeal will reduce conflicts that have divided Americans. It may do more. It may usher in an era of full acceptance by labor of its responsibilities. Once union security becomes a reality in all states, labor will have neither the need nor the excuse for economic aggression that might unsettle the economy. As an equal partner with industry in observing the wage-price guideposts, it will be equally the recipient of governmental pressure to maintain a balanced economy.

On the other hand, a failure to secure repeal would be more than an embarrassing loss of congressional support by the President. Aside from the purely political implications, which could be seriously adverse to both the Administration and organized labor, the economic results which might result from such failure, in the form of increased rank and file unrest, wildcat strikes, repudiation of settlements by the membership of unions, and protracted strikes, could be disastrous. Repeal of Section 14(b) is thus not merely important to the Johnson administration. It is essential.

THE CHALLENGE OF AUTOMATION

(*Continued from page 114*)

present. Technology is the great resource by which we can provide an education for every child; more and better housing; superior medical facilities; improved transportation; adequate recreation areas—and increased leisure time with which to enjoy them.

A nation capable of orbiting manned satellites around the earth, sending expeditions under the polar ice cap and delving into the secrets of the atom and the molecule, should not despair of solving the problems created by technological progress.

COMPULSORY ARBITRATION

(*Continued from page 105*)

The Court is composed of a President and of two members, one selected from an employer panel and one from an employee panel. The power of the Court is impressive. An award is binding on all parties to the award, and may be extended to others at the request of the Minister of Labour on the recommendation of the Court. Subject to the provisions of the Ordinance, awards are final and conclusive. They are not subject to challenge or appeal in any court, or to *certiorari,* prohibition, *mandamus,* or injunction. The Court may take evidence on oath or affirmation. It may summon witnesses before it, and compel the production of written and other forms of evidence. It may conduct any part of its proceedings in private. It may inspect premises. It may refer a matter to an expert and accept his report as evidence. It may dismiss a trade dispute, or any part of a trade dispute, if it appears that it is trivial or that further pro-

ceedings are not in the public interest.[21]

Breaches of awards are punishable by fines listed in the Ordinance. The Court has the power to order compliance with an award proven to have been broken, and to enjoin a trade union or person from committing or continuing a contravention of any provision of the Ordinance. The Court has the same power as the High Court to punish (as contempt of Court) a failure to comply with an order of the Court.[22] With such power, the operation of the Court has been highly effective. There have been work stoppages, but these may be blamed upon political upheavals rather than upon the failure of the Court to act properly within its sphere.

In spite of its accomplishments, the Court has been subject to criticism by both management and labor groups. The finality of the awards disturbed some people, and led them to rely on economic force rather than to use the facilities of the Court. If the parties do not agree to submit the dispute to arbitration, the only way a dispute may come before the Court is through referral by the Minister of Labour or by the Yang di-Pertuan Negara. Thus if the Minister or the Yang di-Pertuan Negara do not refer the dispute, the machinery designed for the purpose may not be used. Usually the Yang di-Pertuan Negara prefers to operate through the Minister; so in practice the decision lies with one man who may act (or refuse to act) for political purposes rather than for the public interest.

Employers criticized the legislation as being too strongly pro-labor. For instance, under the terms of the Ordinance, employers may have to negotiate with unions which do not represent a majority of the employees. Unions, on the other hand, felt that the Court's policies were not liberal enough to promote the best interests of labor, and that some of the monetary awards were not high enough. Probably the popularity of the Court will shift from time to time depending upon how its decisions fulfill the relative expectations of the parties. Both sides believe that the Ordinance has had some success in maintaining industrial peace. Some strikes have been averted.

In spite of the criticism, the legislation seems to have cautious approval. The worst danger is the possibility in Singapore that the Court will be placed under pressure by the political party in power to make decisions that will gain votes for the party. Such an occurrence would be disastrous, because the Court must have the confidence of both labor and management to survive. If that danger is averted, the chances for the continued operation of the Court appear excellent.

Norway

In Norway, the Labor Disputes Act of August 6, 1915, was the very first labor disputes legislation ever enacted, and in spite of subsequent amendments, its basic principles have survived to the present day. The Act created the Labor Court for the settlement of disputes over rights, and the mediation system for the settlement of disputes over interests. Rights disputes arise over the validity or interpretation of a collective bargaining agreement—what the law *is*. Interests disputes arise over the negotiation of a new agreement—what the law *will be*.

The Labor Court is a tripartite body with representatives drawn from labor, management, and the government. The Court will not accept a case unless there has been previous negotiation, but when it does accept a case, its decision is final and cannot be appealed except on questions of the Court's jurisdiction. The Court tries only cases which are based on collective bargaining agreements. Thus the parties involved in a dispute are a trade union and an employer or an employer association. An employer wishing to prosecute a claim against an individual worker must sue the union bound by the agreement and name the individual worker as codefendant. Similarly, a worker may sue an employer only through his trade union. Decisions of the Court are made by majority vote and are often unanimous. If the decision adopts a certain interpretation of an agreement, that interpretation applies

[21] *Ibid.*, Part VI, Procedure and Power of the Court, Sec. 60.
[22] *Ibid.*, Part V, Awards, Sec. 33–55.

to every contract of employment based on the same agreement. Such decisions, therefore, are regarded as precedents. Decisions of the Court are legally binding, and work stoppages in violation of a Court decision are specifically declared illegal. The Court has no penal jurisdiction, but it may award compensation for breach of contract. This system of compulsory arbitration of disputes over rights has become a permanent institution in Norway, and apparently has been fully accepted by both trade unions and employers.

The mediation system requires a trade union or an employer wishing to initiate a strike or a lockout in a dispute over interests to give the state mediator four days' notice before a work stoppage may be called. The mediator may then issue a prohibition against the work stoppage, and including the four days' notice, he has 18 days in which to find a solution to the dispute. The mediator's proposal must be based on the terms offered by the union and the employer, and often it is substantially a settlement made by the parties themselves. If no solution is found, the work stoppage ensues after the 18-day period has elapsed. The mediator may issue a public report and reopen the mediation system, but he may not order the termination of the strike or lockout. Thus the Norwegian system covering disputes over interests is compulsory mediation rather than arbitration. It has become an integral part of collective bargaining in Norway, and in spite of the limits that compulsory mediation places on freedom of action, it has been accepted by both labor and management as a desirable form of government intervention in interests disputes.

If a dispute over interests is not settled by negotiation or mediation, the parties may jointly place the dispute before the National Wage Committee, a tripartite committee created by the Voluntary Arbitration Act of December 19, 1952. A National Wage Committee decision is considered the same as a collective bargaining agreement, but since the parties voluntarily place the dispute before the Committee, the Committee's decision is the result of voluntary arbitration rather than compulsory arbitration.

Prior to the Act of 1952 and after the end of World War II, a system of compulsory arbitration of interests disputes prevailed in Norway to help maintain industrial peace and to implement a national wage policy. After several years of debate, it became apparent that both management and labor were opposed to compulsory arbitration, and it was eliminated as a permanent institution by the Voluntary Arbitration Act. Since 1953, however, compulsory arbitration boards have been used as a result of special legislation on an *ad hoc* basis. This is done when mediation has failed to settle the dispute, and when the state mediator believes that the dispute involves important public interests. The state mediator then notifies the Minister of Municipal Affairs and Labor that a work stoppage is imminent. The Minister may recommend to the government that a compulsory arbitration board be established. If Parliament is in session, a special bill authorizing the establishment of a board is submitted to it. If Parliament is not in session, the government may proceed under the terms of a provisional decree.

The government has recommended the establishment of compulsory arbitration boards in many cases, particularly in the shipping industry, which indicates Norway's heavy reliance on foreign trade, and the government's desire to protect the public from widespread economic injury. The system is similar to that used in the United States for the first time during the railroad dispute in 1963. In determining whether to invoke compulsory arbitration, apparently the chief criterion considered is the extent of harm to the public interest. Will the harm be great enough to justify the use of compulsory arbitration? On the basis of the same criterion, an *ad hoc* system of compulsory arbitration might be developed in the United States, but because of the opposition of both labor and management, it is not likely to be used as frequently as it has been in Norway unless other possible solutions through the collective bargaining process fail.

A CURRENT HISTORY Chronology covering the most important events of June, 1965, to provide a day-by-day summary of world affairs.

The Month in Review

By Mary Katharine Hammond
Instructor of History, Ohio Northern University

INTERNATIONAL

African-Asian Conference

June 26—A 15-nation preparatory committee decides to postpone until November 5 the summit conference of 50 countries scheduled for June 29 despite Communist China's opposition. The postponement is due to political upheaval in the host country, Algeria.

Berlin

June 18—An armed helicopter manned by East Germans flies over U.S. army installations, in violation of postwar four-power agreements.

June 25—East Germany demands that the Western allies negotiate air access rights to Berlin with East German officials.

June 26—East Germany begins selling travel permits to barges supplying West Berlin. These permits replace the free documents formerly issued under agreements for barge regulation made by the U.S., Britain and France with the Soviet Union.

North Atlantic Treaty Organization (NATO)

June 1—U.S. Defense Secretary Robert McNamara tells the NATO defense ministers that Western nuclear strength in Europe has been increased 10 per cent since January 1.

Organization of African Unity (O.A.U.)

June 13—A three-day extraordinary session of the Ministerial Council ends at Lagos, Nigeria. The session was called to examine charges of subversion against Ghana brought by the Ivory Coast, Niger and Upper Volta. The Council appeals to its 36 members to end dissension to insure the success of a September heads-of-state meeting scheduled in Ghana.

United Nations

June 15—The Disarmament Commission approves a resolution calling for resumption of intensive negotiations by the Geneva disarmament conference.

June 17—The Special Committee on Apartheid calls on the Security Council to urge all U.N. members to break economic and military relations with South Africa.

June 20—Reliable sources say the U.N. has been meeting its payrolls since January 1 by inducing creditors to wait and by borrowing about $6 million from trust funds in its possession.

June 21—Britain, Canada and the Scandinavian countries pledge donations of $17.7 million to help ease the U.N. deficit.

June 24—The ratification of two amendments to the U.N. Charter assures enlargement of the Security Council from 11 to 15 members and of the Economic and Social Council from 18 to 27. 82 (6 more than the required two-thirds) governments, including the five permanent members (also required), take favorable action.

June 25—President Lyndon B. Johnson addresses the twentieth anniversary commemorative session of the U.N., meeting in San Francisco. He asks the U.N. to participate in the search for a peaceful solution in Vietnam.

June 26—Ending the two-day San Francisco session, the U.N. hears the Soviet repre-

sentative attack the "dirty aggressive war" fought by the U.S. in Vietnam.

ALGERIA

(See also *International, African-Asian Conference*)

June 19—President Ahmed Ben Bella is ousted in a bloodless coup led by Defense Minister Col. Houari Boumedienne.

June 20—Algiers is the scene of mass riots by students protesting the downfall of Ben Bella.

June 22—The Revolutionary Council reports that only former President Ben Bella and five other top officials have been arrested.

June 30—Boumedienne, in his first speech since assuming power, denies that his regime is militaristic.

ARGENTINA

June 7—The U.S. consul at Cordoba is wounded by unknown gunmen.

June 18—Foreign Minister Zavala Ortiz says that the U.S., in disregarding the O.A.S. in the Dominican crisis, is disrupting the inter-American alliance and losing much goodwill.

BRITISH COMMONWEALTH, THE

Ceylon

June 18—Ceylon's prime minister refuses to serve on the Vietnam peace mission proposed by the Commonwealth prime ministers.

Ghana

June 13—A new cabinet is announced in Accra. Alex Quaison-Sackey, President of the U.N. General Assembly, is named Foreign Minister. Former Foreign Minister Kojo Botsio is named chairman of the State Planning Commission.

Great Britain

June 15—The Minister of Education moves to prevent segregation in British schools.

The government reports that Britain's trading position worsened in May, with exports declining and imports rising to the highest level since records were begun.

Lady Spencer-Churchill, widow of Si Winston, takes her seat as a new membe of the House of Lords.

June 17—The conference of Commonwealt prime ministers opens in London. The 2 nations in attendance agree that the prim ministers of Britain, Ghana, Nigeria, Trin dad and Tobago, and Ceylon should vis Moscow, Washington, Saigon, Peking an Hanoi in an effort to lay the groundwor for a Vietnam peace conference.

June 25—The Commonwealth prime minis ers propose a four-point Vietnam peac plan that would end U.S. bombing c North Vietnam as well as movement c troops and supplies from North Vietnam t the south.

India

June 5—A government spokesman says tha during May there were 339 incidents wit Pakistani forces along the Kashmir ceas fire line.

June 6—Prime Minister Lal Behadur Shast warns of the possibility of war with Paki tan at two official meetings.

June 9—Kashmiri police jail five demonstra tors protesting the arrest of the leader c the Kashmiri Muslims.

June 10—The government assumes powe to control all local distribution of petroleu products.

June 18—India agrees to withdraw from tw posts seized on the Pakistani side of th Kashmir cease-fire line as soon as th U.N. establishes an observer team there

June 29—India and Pakistan agree to a ceas fire in the Rann of Cutch, effective July

June 30—India and Pakistan agree to general withdrawal of troops from the long-disputed border areas. Troop witl drawal will be effective July 1 on all di puted borders except in the states of Jamm and Kashmir.

Kenya

June 1—President Jomo Kenyatta tells tens thousands of cheering Kenyans that the is no place in his country for communisr

June 11—Finance Minister Gichuru attac Communist China for shipping arms

Kenya's enemies and maintaining Chinese agents in Kenya.

Tanzania

June 8—Premier Chou En-lai of Communist China ends a four-day state visit in Dar es Salaam. He and President Julius Nyerere issue a joint communiqué denouncing U.S. involvement in Vietnam, the Dominican Republic and the Congo.

June 18—The government sharply curbs a wide range of imports from Kenya and Uganda, her two partners in the East African Common Market.

BRITISH TERRITORIES

British Guiana

June 24—The U.S. consulate in Georgetown is rocked by a bomb.

Rhodesia

June 28—A Commonwealth prime ministers conference communiqué reaffirming Britain's opposition to unilateral independence for Rhodesia and calling for majority rule is almost ignored. Rhodesia was not invited to the conference. (See also *British Commonwealth, Great Britain.*)

BULGARIA

June 22—North Vietnamese Vice Premier Le Thanh Nghi signs an agreement with Bulgaria to expand economic ties.

CHAD

June 13—President Francois Tombalbaye charges that a group of "adventurers" in The Sudan is plotting against his nation. He warns that if The Sudan does not take action against the group within three weeks, he will expel all Sudanese from Chad.

CHINA, NATIONALIST

June 30—U. S. economic aid to the Republic of China on Taiwan ends by mutual agreement; military aid will continue.

CHINA, PEOPLE'S REPUBLIC OF (Communist)

June 9—Hong Kong reports a rising flow of refugees from China after a long period of quiet.

June 13—The Chinese Communist press agency, *Hsinhua,* carries an article charging that the present leaders of the Soviet Union are more "revisionist" than Khrushchev; the "soft tactics" of Soviet foreign policy are attacked.

June 18—Peking strongly denounces the Soviet Union for attempting to secure an invitation to the conference of African and Asian nations scheduled for June 29.

June 20—In Cairo, Premier Chou En-lai denounces the proposed Commonwealth peace mission on Vietnam as a "hoax."

June 27—Still in Cairo, Chou En-lai meets with President Sukarno of Indonesia and President Gamal Abdel Nasser of Egypt for talks of the "highest importance." (See also *Intl, African-Asian Conference.*)

CONGO, REPUBLIC OF THE (Leopoldville)

June 12—Government spokesmen indicate that the main threat of the rebel forces has been eliminated.

CUBA

June 11—Usually reliable sources in Havana report that Ernesto Che Guevara has been replaced as Minister of Industries.

June 14—The Cuban Communist party establishes its first full-fledged cell at Havana University. Officials announce an ideological "second revolution" in Cuban education and denounce the dangers of "intellectualism."

June 17—In a speech, Premier Fidel Castro says that his government is under no obligation to tell the world the whereabouts of Che Guevara.

June 19—Under an agreement reached with Vatican representatives, the government exempts those studying for the Roman Catholic priesthood from military service.

DOMINICAN REPUBLIC

June 1—The Organization of American States (O.A.S.) obtains a formal agreement from the two disputing factions in Santo Domingo to "neutralize" the Presidential Palace, which has been the scene of recurrent incidents endangering the 12-day-old cease-fire accord.

Brig. Gen. Antonio Imbert Barreras, leader of the military and civilian junta, approves a plan for national elections to be held at a date to be set by the O.A.S. and supervised by that body.

June 2—Francisco Caamaño Deño, leader of the rebel forces, declares that the election proposals are a "deception" and insists that the revolution's goals must first be fulfilled.

June 16—After 24 hours of heavy fighting in which 69 persons are killed, the rebels resume negotiations with the three-man mission of the O.A.S.

June 18—The O.A.S. mediation commission offers a peace proposal calling for national elections within six to nine months to both sides in the Dominican fighting.

June 21—A call for a general strike is virtually ignored in all parts of the country.

June 23—The rebel leaders accept several of the peace proposals outlined by the O.A.S. mediation team. They reject others, mainly those dealing with the future of the rebel military officers. The junta leaders give the O.A.S. a counter-proposal, which has as its main feature a stipulation that the junta should be the key to any provisional government.

June 28—Former President Joaquin Balaguer returns from a three-year exile to see his mother and announces his interest in the presidency after a provisional government is formed.

FRANCE

June 3—The Socialist candidate for the presidency, Gaston Defferre, urges his party to join other left and center groups in a federation to defeat President Charles de Gaulle.

June 6—The Socialist party agrees to enter into a federation of non-Communist left and center political forces for the forthcoming presidential election.

June 11—President de Gaulle confers in Bonn with West German Chancellor Ludwig Erhard.

June 16—Starting a four-day tour of France, de Gaulle makes 6 major speeches stressing France's role as mediator between the United States and the Soviet Union.

Finance Minister Giscard d'Estaing announces that France will pay $178.5 million of her post-World War II debt to the United States ahead of time.

June 18—Gaston Defferre announces that the anti-Gaullist parties cannot reach an agreement broad enough to form an active political federation.

June 25—Gaston Defferre withdraws as a presidential candidate.

GERMANY, DEMOCRATIC REPUBLIC OF (East)

June 14—Yugoslav President Tito ends a week-long state visit. In a joint communiqué, he and East German leader Walter Ulbricht sharply attack West Germany's doctrine of nonrecognition for any country that establishes diplomatic relations with East Germany.

GERMANY, FEDERAL REPUBLIC OF (West)

June 5—Chancellor Ludwig Erhard, returning from a Washington visit, asserts that West Germany has "an absolutely reliable ally" in the United States.

June 12—French President de Gaulle ends a two-day visit to Bonn. No agreement is reached on Erhard's proposal for heads-of-state meeting of the six European Economic Community countries.

June 23—The West German government says current East German actions in Berlin endanger Europe's peace. An appeal is made for a solid Allied front against the Communist threat.

June 27—The Saarland gives the Christian Democratic Union 42.7 per cent of the votes in balloting considered a trial run for the national elections scheduled for September.

HUNGARY

June 28—Janos Kadar resigns as premier. He is to be replaced by Gyula Kallai. Kadar remains as First Secretary of the Communist party.

IRAQ

June 13—The Baghdad radio confirms reports of new heavy fighting between the army and Kurdish rebels in the north.

June 15—Gen. Mustafa al-Barzani, leader of the Kurds, asks his representative in Cairo to report to him. The general is said to feel that President Nasser has not lived up to his pledges to the Kurds to try to restrain the Iraqi government in its campaign against the rebels.

ISRAEL

June 1—The Israeli army reports that Arab guerrillas from Lebanon and Jordan have attacked two Jewish settlements.

June 4—The Central Committee of the Mapai party nominates Premier Levi Eshkol as the party's candidate as premier following next fall's elections. Former Premier Ben-Gurion is defeated in his efforts to regain power.

June 29—Former Premier Ben-Gurion breaks with the Mapai party and announces an independent slate of candidates for the November general elections.

JAPAN

June 3—Premier Eisaku Sato appoints a new 18-member cabinet with only two holdovers from former Premier Hayato Ikeda's government.

June 8—The governing Liberal-Democratic party issues a statement strongly backing the U.S. position in Vietnam.

June 22—Japan and Korea sign a treaty and 20 related documents restoring diplomatic relations after 55 years. More than 10,000 unionists and students march through Tokyo protesting the treaty. (See also *Korea.*)

KOREA, REPUBLIC OF (South)

June 8—Nine army officers are indicted on charges of having plotted to overthrow President Chung Hee Park's government last month.

June 21—Violent protest marches are held in Seoul opposing projected restoration of relations with Japan. Police arrest 610 demonstrators. (See also *Japan.*)

MOROCCO

June 7—In an effort to break a political deadlock, King Hassan II declares a state of emergency and assumes all legislative and executive powers.

June 8—King Hassan II appoints a new cabinet of 20 ministers known for their personal loyalty to him. He assumes the post of premier.

NETHERLANDS, THE

(See *South Africa*)

POLAND

June 30—In a move considered politically significant, the élite Polish security troops are removed from the Ministry of the Interior and placed under the control of the Ministry of Defense.

SOUTH AFRICA, REPUBLIC OF

June 5—The government introduces drastic new security legislation in Parliament.

June 11—The Dutch foreign minister says in the Hague that the Netherlands is planning to give $28,000 to a charity organized for political prisoners in South Africa.

June 16—Foreign Minister Hilgard Müller says a formal protest has been made to the Netherlands for interfering in the internal affairs of South Africa. South Africa also cancels negotiations to give KLM Royal Dutch Airlines additional landing rights.

SUDAN, THE

June 10—The new Constituent Assembly meets and elects former Foreign Minister Mohammed Ahmed Mahgoub as premier.

SYRIA

June 1—President Amin el-Hafez declares Syria will accept no Palestinian solution short of elimination of Israel. He criticizes the Arab unified military command as ineffective.

June 4—In a radio broadcast, Syria accuses the United Arab Republic and other Arab nations of planning to leave Syria to face Israel alone in any showdown over the diversion of the Jordan River.

U.S.S.R., THE

June 7—Local officials of Gori, in Georgia,

announce plans to reopen the museum honoring their native son, Josef Stalin.

June 8—The Soviet Union, in an apparent attempt to make a "soft landing" of an instrument package, launches another unmanned spacecraft, Luna 6, toward the moon.

June 9—Diplomatic sources in Moscow say the Soviet Union is expected to help North Vietnam rebuild roads and bridges destroyed by U.S. bombers.

Soviet officials report that Luna 6 will miss the moon by about 100,000 miles.

June 15—At the International Air Show in Paris, the Soviet Union unveils the world's largest airplane, designed to seat 720 passengers.

June 18—Yugoslav President Tito arrives in Moscow for his first meeting with the new leaders of the Soviet Union.

June 20—The Soviet Union charges in *Pravda* that Communist China has rejected Soviet proposals for joint action to oppose U.S. military moves in Vietnam.

June 21—An editorial in *Kommunist* makes it clear that the Soviet Union will not compromise her basic beliefs on Communist ideology, to heal the rift with Communist China.

June 23—Plans are announced for building a huge power generating center in central Asia to feed electricity to the industrial areas of European Russia.

June 24—The government rejects a proposal of British Commonwealth prime ministers for negotiations aimed at a Vietnam settlement.

UNITED ARAB REPUBLIC

June 15—Premier Aly Sabry tells the National Assembly that a system of forced savings will be instituted to help meet the budget deficit.

June 19—Chinese Premier Chou En-lai arrives in Cairo to confer with President Nasser.

UNITED STATES, THE

Civil Rights

June 3—The first Negro deputy hired by the Bogalusa, Louisiana, sheriff, is killed. Three white men are accused of the murder.

June 14—Protesting the alleged illegality of a special session of the state legislature, called to reform voter registration laws, 472 Negro and white civil rights demonstrators are arrested in Jackson, Mississippi.

June 15—An additional 203 civil rights marchers are arrested in Jackson, Mississippi.

During a week of demonstrations in Chicago, Illinois, more than 530 persons protesting de facto school segregation are arrested.

June 17—Francis Keppel, Commissioner of Education, declares that the 1964 Civil Rights Act requires individual colleges to see that fraternities do not discriminate on racial grounds.

June 22—The Law School of the University of Mississippi reveals that it is actively seeking Negro students from low-income families under a Ford Foundation scholarship program.

June 23—The Department of Health, Education and Welfare reports that more than 700 Southern school districts have failed to indicate whether they will desegregate to receive federal aid. (See June *Current History, U.S. Gov't,* April 29.)

June 24—Officials from the Department of Health, Education and Welfare begin investigating charges of racial discrimination in Boston, Massachusetts, public schools.

June 28—New Jersey's Supreme Court rules that New Jersey communities must endeavor to disperse Negroes throughout their school systems; mere reduction of racial imbalance in predominantly Negro schools is not sufficient.

Economy

June 1—The chairman of the Federal Reserve Board, William Martin, says he notes a series of "disquieting similarities between our present prosperity and the fabulous twenties." Following his speech, the Dow Jones industrial average drops 9.5 points on the stock market.

June 3—President Lyndon B. Johnson an-

nounces that the unemployment rate fell in May, 1965, to 4.6 per cent, the lowest level since October, 1957.

June 14—The Labor Department reports that nonfarm employment reached a record high in May, 1965, of 60,014,000, or 2.1 million higher than a year ago.

June 15—President Johnson and top Democratic leaders report that practically every aspect of the present business situation is good. Secretary of the Treasury Henry Fowler says there are no signs on the horizon of any economic difficulties.

In one of its busiest sessions in 19 months, the New York Stock Exchange stages a rally with industrial stocks rising an average 5.8 points.

June 24—A surprise selling wave on the N.Y. Stock Exchange drops the industrial average 12 points, with paper losses of $6 billion.

Foreign Policy

(See also *Vietnam*)

June 1—President Johnson asks Congress for $89 million as a first installment on a $1 billion regional development plan for Southeast Asia.

In a televised news conference, the President makes a detailed defense of his actions in the Dominican crisis. He asserts that Administration leaders were "unanimous" in the decision to intervene. He also announces the withdrawal of 2,000 marines from Santo Domingo.

June 2—A first secretary of the Soviet embassy, Stefan M. Kirsanov, is ordered by the U.S. to leave the country as soon as possible for engaging in "activities incompatible with his diplomatic status."

June 3—At a Jefferson-Jackson Day dinner, Johnson makes a direct appeal to the peoples of the Soviet Union to seek new initiatives for world peace. He also announces he has ordered the withdrawal of all the remaining U.S. marines in the Dominican Republic.

June 4—As Senate debate opens on a $3.35 billion foreign aid authorization, Senator J. W. Fulbright proposes that the U.S. turn over to the O.A.S. the U.S. presidential authority to control the assignment of military aid to Latin American countries.

West German Chancellor Ludwig Erhard, meeting with Johnson, says his government supports U.S. efforts to resist Communist aggression in Vietnam.

June 5—For the first time, the State Department publicly acknowledges that U.S. ground troops in Vietnam are engaging in combat, under some circumstances, to protect key installations.

June 7—Australian Prime Minister Sir Robert Menzies, after conferring with the President, says his countrymen are "completely at one" with U.S. policy in Vietnam.

June 8—The Senate votes to put $25 million in military aid for Latin America into an inter-American peace force controlled by the O.A.S.

June 9—While confirming that U.S. troops in Vietnam have been authorized to enter combat to support native troops, the White House insists there has been no change in the primary mission of U.S. combat troops, to protect major bases in South Vietnam.

June 12—The Senate Foreign Relations Committee orders a fact-finding inquiry into the Dominican conflict, with hearings to start within two weeks.

June 15—Senator Fulbright, chairman of the Foreign Relations Committee, proposes that the U.S. conduct a "resolute but restrained" holding action in Vietnam until the Communists agree to negotiate. Stressing the need for compromise on each side, he speaks against moves to "escalate" the war.

June 16—Defense Secretary Robert McNamara reports that 21,000 additional troops are being sent to Vietnam.

June 17—President Johnson accuses the rebels in the Dominican conflict of "flagrant violations" of the cease-fire to hamper efforts toward a political settlement.

June 20—Vice-President Humphrey confers in Paris for over an hour with French President Charles de Gaulle.

June 22—The State Department announces that the President has decided it is in the national interest to send the United Arab

Republic the $37 million in surplus farm products still undelivered under a three-year contract that ends June 30. This aid was suspended six months ago.

Government

June 2—The House votes to repeal $4.8 billion in excise taxes on automobiles, jewelry, handbags, household appliances and other items.

June 3—President Johnson asks Congress to eliminate silver from dimes and quarters and sharply reduce it in half dollars.

June 7—The Senate approves an Administration request for $89 million in additional foreign aid funds for South Vietnam, Laos and Thailand.

June 8—President Johnson orders the Veterans Administration to proceed with the closing of 6 of the 11 veterans hospitals originally recommended for closing. The agency is also ordered to close two of the four veterans homes first planned for closing, and to consolidate 9 of the 17 V.A. regional offices it originally planned to consolidate.

June 9—The House approves a $328 billion limit on the national debt, a figure $4 billion above the present temporary debt ceiling but $1 billion below the limit proposed by the Treasury Department.

The House approves a measure which would permit Americans to see the documentary film on the life and death of President John F. Kennedy, produced by the United States Information Agency for audiences overseas.

June 14—The Senate passes a two-year, $3.24 billion foreign aid authorization bill.

June 15—The Senate approves a bill for a $4.7 billion reduction in excise taxes.

June 17—Secretary of the Army Stephen Ailes resigns. The President announces that Under Secretary of the Army Stanley Resor will succeed him.

The President announces that the federal deficit for the year ending June 30 will be $3.8 billion, or $2.5 billion less than the January estimate.

June 18—Congressional investigators accept assurance from Army Secretary Ailes that there was nothing improper in his ownership of stock in a finance company specializing in loans to servicemen. A House subcommittee has been investigating charges of unethical practices against the Federal Service Finance Corporation.

June 19—Interior Secretary Stewart Udall announces three departmental agencies have been directed to offer birth control information to American Indians living on reservations, natives in the Pacific Trust Territory and Indians, Eskimos and Aleuts in Alaska.

June 20—At the opening session of the national convention of the American Medical Association, the group's president, Dr. James Appel, warns doctors it would be unethical and poor citizenship to boycott Medicare.

June 21—District Judge Joe B. Brown, who presided over Jack Ruby's murder trial, is removed at his own request from further proceedings in the case.

The House approves a measure to make the assassination of a President or Vice-President a federal crime punishable by death.

Signing the excise tax reduction measure, President Johnson promises new tax relief for the lower income groups.

The President announces he will appoint LeRoy Collins, former governor of Florida, as Under Secretary of Commerce, to succeed Franklin Roosevelt, Jr.

June 22—For the first time in congressional history, a subcommittee begins hearings on birth control and population problems.

Legislation requiring cigarettes to carry a health warning is passed by the House.

June 24—A bill providing for new coinage with no silver in dimes and nickels, is approved overwhelmingly by the Senate.

At the closing session of the A.M.A. convention, proposals to make a boycott of Medicare an official policy are defeated. However, doctors wishing to boycott the program will be allowed to do so.

June 30—In a compromise with the Administration, the Senate and the House approve

a bill allowing tourists to bring $100 in duty-free goods into the U.S., calculated on the retail rather than the wholesale value. The Administration sought a $50 limit.

Labor

June 1—I. W. Abel is sworn in as the new president of the United Steelworkers of America.

June 2—Washington sources indicate that the government is unhappy over the wage settlements reached in the aluminum industry and the price increase that immediately followed. The 4.1 per cent increase in wages exceeds the 3.2 per cent increase considered non-inflationary.

Military

June 3—Majors Edward White and James McDivitt begin their record-breaking four-day space flight aboard the Gemini 4 capsule. White remains outside the space capsule for 20 minutes.

June 4—The Pentagon issues a July draft call for 17,000 men, the largest number since the 1961 Berlin crisis.

June 7—The two astronauts in the Gemini 4 capsule land safely in the Atlantic Ocean.

June 18—With the successful firing of a Titan 3-C, the U.S. launches the most powerful rocket ever known to have been fired.

Politics

June 1—Elliott Roosevelt, son of President Franklin Roosevelt, is elected mayor of Miami Beach, Florida.

June 10—Robert Wagner announces he will not run for a fourth term as mayor of New York.

June 16—Representative Albert Watson of South Carolina, who resigned from the Democratic party, is reelected as a Republican.

June 17—Barry Goldwater announces the formation of the Free Society Association. He asserts it will not serve as the nucleus of a third party but as a major organ for the conservative viewpoint.

June 18—Republican National Chairman Ray Bliss asserts that the formation of the Free Society Association will not be helpful to the Republican cause. Gen. Lucius Clay is named finance chairman for the Republican National Committee.

Tom Van Sickle of Kansas, a Goldwater supporter, is elected chairman of the Young Republican National Federation.

June 19—The Young Republicans approve a platform endorsing the 1964 Civil Rights Act and a Republican-sponsored voting rights bill and advocating repeal of the nuclear test ban.

June 23—G.O.P. Chairman Bliss dismisses William Kelly, his top administrative assistant, on grounds that he broke into the desk and private safe of Frank Kovac, outgoing finance director of the Republican National Committee.

June 24—William Kelly asserts Chairman Bliss "professed satisfaction with my work" in locating missing files and copies of a controversial film.

June 28—Former President Dwight D. Eisenhower urges procedural reform in the national nominating conventions.

Segregation

(See *Civil Rights*)

Supreme Court

June 7—In a 7-to-2 ruling, the Court strikes down the 1879 Connecticut birth control law.

The Court rules unconstitutional a provision of the Landrum-Griffin Act making it a crime for a Communist to serve as a labor union official. The Court rules that the provision is a bill of attainder.

The conviction for swindling of Texas financier Billie Sol Estes is overthrown by the Court because the trial was televised.

URUGUAY

June 10—The National Council decides to withdraw Uruguay's representative from the U.N. Security Council as an expression of disapproval of his denunciation of U.S. policy in the Dominican affair. Although the government has not changed its opposition to U.S. policy, it feels that its U.N. spokesman "distorted and exceeded" his instructions.

VIETNAM, DEMOCRATIC REPUBLIC OF (North)

June 3—The second high-ranking delegation (North Vietnamese) to visit Moscow in six weeks leaves for the U.S.S.R.

June 10—The National Defense Ministry calls on the North Vietnamese to increase their voluntary efforts.

June 15—A military commandant reveals that anti-aircraft installations capable of hitting planes at any altitude ring Hanoi.

VIETNAM, REPUBLIC OF (South)

June 1—Roman Catholic political leaders urge Chief of State Phan Khac Suu to remove Premier Phan Huy Quat.

June 3—The U.S. Defense Department announces that a "small number" of Soviet jet bombers have been sighted near North Vietnam's capital of Hanoi.

June 6—U.S. Ambassador Maxwell Taylor leaves for Washington consultations after unsuccessful attempts to dissuade rival political leaders from pressing their opposition to Premier Quat.

June 12—Chief of State Suu, Premier Quat and the National Legislative Council announce they are all resigning and returning power to the military leaders.

June 13—Maj. Gen. Nguyen Van Thieu, spokesman for the new miiltary government, promises the nation a war government dedicated to unity, discipline and victory.

As major fighting continues around Dongxoai, an 800-man U.S. army paratroop battalion is flown to a nearby airstrip for possible use in the battle.

June 14—Ambassador Taylor returns from Washington and confers with General Thieu. The U.S. is reportedly opposed to the appointment of Air Vice Marshal Nguyen Cao Ky as commissioner in charge of the nation's governmental machinery.

June 16—The National Leadership Committee announces that Vietcong terrorists, corrupt officials, speculators and blackmarketeers will be shot without trial if there is tangible proof of guilt.

June 17—Twenty-nine B-52's based on Guan carry out a massive attack on a jungle are 25 miles north of Saigon.

June 18—An official announcement on th results of the massive air raid by the Stra tegic Air Command indicates that fe casualties were inflicted and no structure demolished.

June 19—Air Vice Marshal Ky is name Premier.

June 22—For the first time, U.S. Air Forc jets bomb targets only 80 miles from th Chinese border.

A Vietcong terrorist is executed by a fir ing squad in Saigon's central market place

June 24—The new government breaks diplo matic relations with France. Saigon's 3 daily newspapers are suspended for month; the hours of curfew are extended some privileges of government employee are removed; salaries of the regime's lead ers are cut in half.

June 25—The Vietcong announces the execu tion of a U.S. army sergeant in reprisal fo Saigon's execution of a terrorist.

Two bombs blow up a floating restau rant in Saigon, killing 42 persons.

June 26—Vietcong forces overrun the distric capital of Toumorong, 290 miles northeas of Saigon.

The Hanoi radio announces that th Vietcong have put Ambassador Taylor an four other American and South Vietnames leaders on its death list.

June 29—For the first time, U.S. paratroop ers participate with South Vietnames soldiers in a combined offensive against Communist stronghold.

YUGOSLAVIA

June 18—President Tito arrives in Moscow for his first visit since the downfall c former Soviet Premier Nikita Khrushchev

June 23—Upsetting a lower court decision an appellate court rules that Mihajl Mihajlov need not go to prison for hi article critical of the Soviet Union.

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